

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.) NO. 96-2-15056-8SEA
)
 AMERICAN TOBACCO COMPANY,)
 et al,)
)
 Defendants.)

VIDEOTAPED DEPOSITION OF JOE C. DANIELS

June 4, 1998
Seattle, Washington

BYERS & ANDERSON, INC.

COURT REPORTING & VIDEO

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TINY 0001142

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EXAMINATION INDEX

EXAMINATION BY:

PAGE NO.

MR. LEEDOM

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EXHIBIT INDEX

EXHIBIT NO. DESCRIPTION

PAGE NO.

(No exhibits marked for identification.)

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3

Joe C. Daniels, 6/4/98

1 BE IT REMEMBERED that on,
2 June 4, 1998, at 999 Third Avenue, Suite 2150,
3 Seattle, Washington, at 10:15 a.m., before
4 **KARMEN M. KNUDSON, CCR, RPR**, Notary Public in and
5 for the State of Washington, appeared **JOE C.**
6 **DANIELS**, the witness herein;

7 WHEREUPON, the following
8 proceedings were had, to wit:
9

10 <<<<<< >>>>>>

11
12 THE VIDEOGRAPHER: Good morning.
13 We are now on the record. My name is Marina
14 Vallejo, videographer for Byers & Anderson Court
15 Reporters, based at 2208 North 30th, Suite 202,
16 Tacoma, Washington, 98403. Our telephone number
17 is 253-627-6401.

18 Today is June 4th, 1998, and it is now 10:30.
19 This is the videotaped deposition of Joe Daniels,
20 being taken in the case of State of Washington
21 versus American Tobacco, et al, cause number
22 96-2-15056-8.

23 This deposition is being held at Bennett,
24 Bigelow, and Leedom, 999 Third Avenue, Seattle,
25 Washington.

Joe C. Daniels, 6/4/98

TINY 0001145

1 Will the attorneys please introduce themselves
2 for the record.

3 MR. LEEDOM: This is Bill
4 Leedom, representing the State of Washington.

5 MR. COLLINS: This is Sven
6 Collins with Bennett, Bigelow, and Leedom,
7 representing the State of Washington.

8 MR. ZAKNOEN: Edward Zaknoen for
9 Philip Morris, Incorporated.

10 MR. SILK: John Silk for
11 Smokeless Tobacco Council.

12 MR. MURRAY: Jim Murray, Gordon,
13 Murray, Tilden for TI, and also today representing
14 the witness, Mr. Daniels.

15 THE VIDEOGRAPHER: The court
16 reporter today is Karmen Knudson.

17 You may swear in the witness and proceed at
18 this time.

19
20 JOE C. DANIELS, having been first duly sworn
21 deposed and testified as
22 follows:

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1 Labor Management Committee, the United Food and
2 Commercial Workers District Council 17, the United
3 Food and Commercial Workers Local 1001, the Puget
4 Sound District Council, which is an umbrella
5 organization of maritime unions in Seattle,
6 Everett, Port of Tacoma area.

7 How many is that?

8 Q Six or seven.

9 A Seven, I've got some more. I'm trying to -- I
10 just went through a process -- I had twelve
11 contracts this last session. Because it's the
12 last year of this legislature, I terminated
13 session only, so let me think who I didn't
14 terminate.

15 MR. MURRAY: Mr. Daniels, I
16 caution you, actually, this question is actually
17 beyond the scope of this deposition. I was
18 letting it go forward as background information.
19 So I caution you to --

20 A I think I turned over my public disclosure forms,
21 so that has all my contracts on it. The only
22 point that I would note is that last report that I
23 did on May 1998, I left off the UFCW 1001 by
24 accident and I wrote a subsequent letter to the
25 PCD. I wasn't compensated, or I didn't lobby for

1 them, but it was not one that I did want to
2 terminate, so that's --

3 Q How do you define a lobbyist?

4 A A lobbyist is an advocate for the client. You --
5 and it varies from client to client. Some clients
6 just want you to monitor legislation, report back
7 to them. Others want you to take a more proactive
8 role in lobbying, get legislation drafted, talk
9 one on one with legislative staff, et cetera.

10 So it really, in my experience over 15 years,
11 it encompasses a whole broad array of duties.

12 Q Is there a code that lobbyists must comply with or
13 follow?

14 A We, of course, have the Public Disclosure Act that
15 tells -- you know, that requires us to report our
16 income, expenses, what we're working on, what
17 issues that we deal with, that type of thing.

18 In terms of a code of ethics, there is nothing
19 that I'm aware of in writing. There is kind of an
20 unwritten code of ethics; you know, you are
21 truthful, you have to be straightforward with
22 legislators and staff. Otherwise, your
23 credibility is shot and you no longer work.

24 Q So as far as you know, there is no written code of
25 ethics for lobbyists?

1 A I'm not aware of one. If there is something in
2 RCW 4217, I'm not -- I haven't read it for
3 awhile.

4 Q And what do you understand to be the unwritten
5 precepts of the code of ethics for a lobbyist?

6 A A couple of items that just come to mind; one is
7 that you -- again, you're straightforward, you
8 know, when you're dealing with legislators and
9 staff, you do not interrupt another lobbyist while
10 he or her is talking to a legislator. There is
11 courtesy aspects of the job that you adhere to.

12 Again, it's just things that I think, as
13 tradition has it, people try to subscribe to.

14 Q Is there any precept in this unwritten code of
15 ethics for lobbyists to research to determine the
16 voracity of the information they are providing to
17 a legislator?

18 A Repeat that.

19 Q Is there any precept in this unwritten code of
20 ethics which requires a lobbyist to research --

21 THE WITNESS: Thanks.

22 MR. MURRAY: Coffee, black?

23 THE WITNESS: Cream and sugar.

24 Q (By Mr. Leedom) -- and make sure that the
25 information that he or she is providing to a

1 legislator is accurate?

2 A I don't -- I wouldn't put that into the code of
3 ethics. I think a lot of lobbyists do that, and I
4 think I do that, too. I mean, if I'm given
5 information from my client, I generally would like
6 to ask questions, if I have questions about it,
7 that type of thing.

8 Q So if you have a question concerning an issue that
9 you are advocating for your client, then you will
10 go to the client and ask questions about the
11 information?

12 A Oh, yeah. Yeah, if I don't understand what they
13 want or if I don't understand the position that
14 they've given me, then I'm not going to talk to a
15 legislator if I don't understand all the details
16 of it, you know, especially in technical work.

17 One client I forgot to mention is the
18 Washington State Association of Sewer and Water
19 Districts, and so with that client, I go to them
20 all the time because you're dealing with some
21 fairly complex water resource, watershed issues
22 and that kind of thing.

23 Q You said that part of the unwritten code is to be
24 truthful.

25 A Right.

1 Q And I'm wondering what steps would you normally
2 take to verify that the information you are
3 communicating to a legislator is accurate and,
4 therefore, truthful?

5 A Again, I -- if I get -- can you give me an example
6 of what you're talking about so I can respond
7 better?

8 Q All right. Let's say there is a provision, since
9 we're talking about tobacco here today, and you
10 receive a publication from Philip Morris that says
11 nicotine is not addictive. Okay? And we saw that
12 at the deposition the other day.

13 What research efforts do you do to verify
14 whether or not nicotine is addictive or not
15 addictive?

16 MR. MURRAY: Objection to form,
17 foundation.

18 Go ahead.

19 A I suppose if I -- hypothetically, if I had that
20 situation -- you know, I personally believe
21 nicotine is addictive. I would probably call them
22 up and say, you know, "Where do you get the
23 information that it's not?"

24 But I've never been instructed to tell any
25 legislator or staff that nicotine is not

1 addictive.

2 Q (By Mr. Leedom) Let me just tell you where that
3 question comes from so you'll know.

4 When we took the deposition of David Ducharme,
5 the first exhibit was a set of statements from
6 Philip Morris, and one of them had the position of
7 Philip Morris is that nicotine is not addictive,
8 and they had provided that to Mr. Ducharme. But
9 I'll get into the details of what you've been
10 provided with later.

11 But do you believe, yourself, that nicotine is
12 addictive?

13 A Oh, yeah --

14 MR. MURRAY: Wait, Mr. Daniels.

15 Objection to form, object to foundation, Your
16 Honor, and move to strike the preface of the
17 question.

18 Q (By Mr. Leedom) Let me just eliminate the preface
19 to correct that.

20 Do you believe nicotine is addictive?

21 A Yes.

22 Q Tell me why you believe that.

23 A I smoke it. I smoke a pipe.

24 Q Do you smoke cigarettes?

25 A No, never have.

1 Q You smoke a pipe?

2 A Yeah.

3 Q But why do you think nicotine is addictive?

4 A Because I -- I personally think it is, just from
5 my experience smoking a pipe. I -- you know, I
6 get up in the morning, I have coffee -- I think
7 coffee is addictive. I have coffee and then I
8 want to go out on the deck and puff my pipe for
9 awhile.

10 I have never tried to stop, but, you know, I
11 don't -- I don't know if I could or not. But I
12 mean, the bottom line is that's my personal
13 belief.

14 Q How long have you smoked a pipe?

15 MR. MURRAY: Wait, wait. I'm
16 going to place an objection for the record, and
17 that is I think this is beyond the scope of the
18 June 1996 court's order. I think the question
19 should be limited to the lobbying activities
20 regarding smoking and tobacco use and
21 health-related issues.

22 From now on, if I use the word "scope of the
23 deposition," that's the objection I'm lodging,
24 Your Honor.

25 Q (By Mr. Leedom) Okay. He is just doing that for

1 the record, and I respect his right to do so --

2 A Okay. I'm getting a little confused here.

3 Q He's doing that as the attorney for you and --

4 A So what was the question again?

5 Q Well, I had asked you how long you smoked a pipe.

6 A I think I started when I was 32.

7 Q Tell me about your background. Where were you
8 born and raised, where did you go to high school?

9 A I was born in Tampa, Florida. I went to high
10 school at a little rural school called Pine Crest
11 in the central part of the state, about 40 miles
12 east of Tampa; 37 in my graduating class.

13 From there, I attended Polk College, Embarko,
14 Florida, for a year. I joined the air force in
15 1967 and served overseas, came back in 19 -- I was
16 up here in McChord. That's how I ended up in
17 Washington state. I came back here when I got
18 discharged from the air force, worked at Saint
19 Jo's Hospital in Tacoma, various hospitals. I was
20 an emergency med tech in the air force, went to
21 college at TCC immediately after getting out of
22 the air force, Tacoma Community College, went to
23 Central Washington State College, took an
24 internship with the Washington State Senate in
25 1973.

1 That was the same year they went to an interim
2 committee staff, and I was fortunate to be kind of
3 in the right place at the right time, so I got
4 offered a position with the Washington State
5 Senate as a research analyst, spent four sessions
6 there, left the senate, went to work for six
7 months as a deputy auditor in Clark County, then
8 came back to the Seattle area and worked with the
9 labor movement for several years as a business
10 representative, business manager/organizer.

11 I edited several labor publications up
12 until -- actually into the '80s as a part-time
13 job, worked for the Service Employees
14 International Union, two of their locals here in
15 Seattle --

16 Q Let me stop you there.

17 A Sure.

18 Q We'll come back to that.

19 A Okay.

20 Q Did you graduate from Central Washington?

21 A No. No, I -- excuse me, I graduated from the
22 Evergreen State College, because I interrupted my
23 studies to take the job with the senate and then
24 finished up while I was still working for the
25 senate.

1 Q What year did you get your degree from Evergreen
2 State?
3 A 1975. Yeah, I had to think about that.
4 Q And number of years in the air force?
5 A Three years, seven months. I got an early out
6 when they did the budget cuts in 1970.
7 Q And you were an emergency med tech in the air
8 force?
9 A Yeah. I was an AFSC 90150.
10 Q Trained by the air force?
11 A Yeah.
12 Q And what year did you get out, then, of the air
13 force?
14 A October 30th, 1970.
15 Q And you were discharged someplace and came back
16 here?
17 A Yeah, I got out in North Dakota. Grand Forks,
18 North Dakota, and I didn't want to stay there.
19 Q So you headed back to the state of Washington?
20 A Right.
21 Q Have you been here ever since?
22 A Yeah.
23 Q And did you enter TCC in 1970 or '71?
24 A Probably '71. I can't remember.
25 I went to TCC as soon as I got back in '71.

1 Q And did you get your degree from TCC?

2 A Yeah, whatever it's called, AA.

3 Q And how long did you work at Saint Jo's?

4 A I want to say a year and a half. It was while I
5 was going to college and while I was in Tacoma
6 there.

7 I also worked at Lakewood General Hospital and
8 Puget Sound General Hospital as -- shift work,
9 graveyards.

10 Q Same thing, emergency med tech?

11 A Except for Puget Sound. I worked in a holding
12 area for mentally disturbed people, that they kept
13 them there 48 hours and determined where they
14 went.

15 Q Then it sounds like you went over to Central
16 Washington in Ellensburg after that.

17 A Right.

18 Q And then how long were you actually there?

19 A I only was at Central physically for one semester,
20 and then I got an internship to come to Olympia,
21 you know. So technically I was still going there,
22 but I only lived in Ellensburg for maybe only four
23 months.

24 Q And then you lived and worked in Olympia until you
25 got your degree in 1975 from Evergreen State?

1 A Yeah. Actually, I still lived in Tacoma,
2 Gig Harbor, and commuted to Olympia. And whenever
3 the gas crisis was, whatever year that was, that's
4 when I moved to Olympia, and continued the
5 education at Evergreen while I was working for the
6 senate.

7 Q Then you told us about your deputy auditor job.
8 When did you start doing lobbying work?

9 A 1984.

10 Q And how did you get into lobbying?

11 A Actually, quite by accident. Between the time
12 that we were talking -- working for the union, I
13 spent five years, almost six years with the King
14 County Council. And I quit that job in 1983, took
15 about a six-month period of time where I didn't do
16 anything. Money started running out, so I went
17 back to Olympia. I applied for a job as chief
18 clerk for the Ways and Means Committee in the
19 house, got that job, worked for the Ways and Means
20 Committee up to the beginning and maybe a week or
21 two into the 1984 session, got approached by
22 another lobbyist who needed some quick help, and I
23 knew the gentleman from my years previous working
24 in the legislature. And he offered me a job
25 lobbying at the same salary that I was making for

1 the house.

2 And I kind of thought, well, let's try it.
3 And so I tried it and literally I've been lobbying
4 since. I only had two clients that session and
5 picked up three the following and developed the
6 business after that.

7 Q So have you been a full-time lobbyist essentially
8 since 1984?

9 A Yeah, pretty much. I've done all -- also, I've
10 done a lot of land use consulting and lobbying in
11 that area, too, on local -- for local government
12 in King County. I don't do that hardly anymore.

13 Q Before 1984, did you work on any issues as a
14 research analyst in the senate or as a chief clerk
15 of the Ways and Means Committee of the house that
16 related to tobacco?

17 A No, not that I recall. I can't remember anything.
18 I worked for the Constitutions And Elections
19 Committee, so that was...(Pause.)

20 Q All right. Let's talk about your work for the
21 tobacco industry as a lobbyist. And why don't you
22 tell me when you first began doing work for any
23 company in the tobacco industry.

24 A I -- I lobbied for the LMC, Labor Management
25 Committee. I did not consider them a company.

1 That's an organization that has six international
2 unions, and the Tobacco Institute is -- that's on
3 their letterhead and the governing board. So I --
4 I consider myself an employee of the LMC -- or
5 contractor with the LMC.

6 Q All right. Let me stop you there.

7 The LMC --

8 A Labor Management Committee.

9 Q I understand that.

10 -- is something you began working for when?

11 A I think it was 1989. It could have been 1990.

12 Q Would that have been the first time, then, that
13 you worked for any business that had at least a
14 component that was tobacco-related?

15 A Actually, 1964 and 1965, I forgot to mention this,
16 I worked for Culbro Tobacco, a division of
17 (inaudible) or something like that. I picked
18 tobacco in Connecticut, shade tobacco --

19 THE REPORTER: Could you repeat,
20 speak into the microphone? I'm having a hard time
21 hearing you.

22 THE WITNESS: Oh, I'm sorry.

23 MR. MURRAY: You might want

24 to --

25 THE WITNESS: Since you're over

1 here, I'll put it over here.

2 Q (By Mr. Leedom) Let's go back and I'll ask some
3 specific questions about that.

4 And by the way, I don't know if you've had
5 your deposition taken before --

6 A No.

7 Q -- but if you feel the need to change an answer
8 like you just did, feel free to do that.

9 A Sure.

10 Yeah, I forgot about that. I -- 1964 --

11 Q So where did you work in 1964?

12 A Connecticut.

13 Q And what were you doing there?

14 A Picking tobacco, shade tobacco, leaf tobacco that
15 you wrap the cigar in.

16 Q And where did you pick this?

17 A Connecticut.

18 Q I mean, was it a farm, was it a --

19 A Oh, yeah, fields; shade tobacco. It's grown
20 underneath cheesecloth. And it was a program that
21 a lot of kids from the south, Florida, West
22 Virginia, Georgia, high school kids, you went up
23 there, you lived in the barracks, primarily.
24 It's an old Nike base they had outside of Simsbury
25 and you got room, board, field trips. They didn't

1 pay you very much, but it was work.

2 Q Was it a summer job?

3 A Yeah.

4 Q So you would have been in high school at that

5 time?

6 A Right.

7 Q So this was the summer of '64, or the summer of

8 '65?

9 A It's either '64 or '65. I graduated in '66, so

10 that was senior -- my junior/senior year. So it

11 was '65, '66.

12 Q The summer of '65 it was?

13 A Yeah, the New York World Fair, we went to that, so

14 whatever year that was.

15 Q Did you work more than one summer?

16 A Uh-huh. (Witness answers positively.)

17 Q Two summers?

18 A Two, yeah.

19 Q And who owned the fields that you worked in?

20 A Well, my check says Culbro, C-U-L-B-R-O, Culbro,

21 Tobacco. And I think it was General Cigar, or

22 something like that. I don't know.

23 Q Was all the tobacco that you were picking for

24 cigar use, as you --

25 A Wrapper, yeah, for the wrapper that goes around

1 cigars.

2 And I also omitted the fact that I do smoke
3 cigars from time to time. I can't afford them,
4 though.

5 Q Other than that first contact with the tobacco
6 industry, would the next contact have been in the
7 '89 to '90 time frame when you worked for the LMC?

8 A Right.

9 Q Let's talk about the LMC for just a minute.

10 You said there are six members to this, or
11 five?

12 A There is six international unions, plus the
13 Tobacco Institute has a representative that
14 attends the board meetings. There is -- the
15 tobacco industry, there is 22,000, roughly,
16 unionized members that work for the tobacco
17 companies in the plants and that type of thing,
18 and there is two international unions that have
19 the bulk of the membership: The Baker,
20 Confectionery and Tobacco Workers and then the
21 International Association of Machinists. They --
22 just, rough guess, I'd say they probably represent
23 95 percent of all the unionized employees. I
24 might be off on that, but it's the bulk of them.
25 And then there is four other unions that have

1 small -- small memberships.

2 Q Okay. And the LMC includes the baker and

3 confectionery group and the machinists group?

4 A Right. Yeah, they're the two -- the main people

5 in the organization.

6 Q Do you know how many tobacco workers there are in

7 the United States, including union and non-union?

8 A I don't know how many non-union. The figure that

9 I've always been told is roughly 22,000 unionized.

10 Q But you don't know the non-union component?

11 A I don't know.

12 Q Do you suspect it's a large number or a --

13 MR. MURRAY: Objection to form.

14 Objection to form.

15 A I -- I don't know. I've never thought about it.

16 I -- I know some of the companies are not union,

17 so...(Pause.)

18 Q (By Mr. Leedom) Now, the Tobacco Institute, you

19 said, is a member of the LMC?

20 A They sit on -- I don't know if they're a member.

21 They come to the conferences and to the meetings

22 and they have a representative there that sits on

23 the head table, I guess you should call it.

24 Q Is there a board of directors for the LMC?

25 A Yeah.

1 Q And does somebody from the Tobacco Institute sit
2 on that board?

3 A I'm not -- I'm not sure if they're a member of the
4 board.

5 The hierarchy, or -- if you want to get into
6 the structure, Frank Hurt, who is international
7 president of BCMT, is the chairman of the
8 committee, Bob Curtis, who is the
9 secretary/treasurer of the BCMT, is one of the
10 co-chairs, or something like that. I -- you know,
11 it's kind of an informal situation.

12 Ray Scannon, who is a research director, is
13 involved. Tom Burfenbocker, who is international
14 president of the machinists union, is a member.
15 And sometimes he sends a designee, usually his
16 executive assistant. And those are the people
17 that actually -- and then Jim Savarese, who is a
18 Washington, D.C. consulting firm that handles the
19 LMC state operations, sits on it.

20 Q That was my next question: Is the LMC that you
21 worked for for the state of Washington only?

22 A Yeah, yeah. They have counsel in other states.

23 Q Do they have 50 chapters, one for each state, as
24 far as you --

25 A No, and it varies. Since I've been with them in

1 '89 or '90, when I first -- the first meeting I
2 went to, there was a whole ton of them; you know,
3 there was maybe 60. And then they went down and
4 it went up, and I would say there is probably 15
5 or 20. I'm not sure.

6 There is not too many out here. There is one
7 in California and then out here in Washington
8 there is Bill Holaytor. Bill Holaytor is also a
9 member -- or he is on the payroll.

10 Q Is he a lobbyist?

11 A No, Bill is a retired former IAM, International
12 Association of Machinists, political director that
13 retired out here. He spent 22 years in D.C. and
14 Bill works with various groups. I know he helped
15 start the Citizens for Tax Justice, or was part of
16 that. And Bill was involved with -- he is
17 involved in a lot of senior issues now,
18 volunteering, that type of thing.

19 He is actively retired, I guess would be
20 the -- the best term.

21 Q How do you spell his last name, or pronounce it
22 again?

23 A Ho, H-O, L-A-Y-T-O-R. I don't know.

24 Q Holaytor?

25 A Holaytor, yeah.

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26

Joe C. Daniels, 6/4/98

1 Q Where does he live?
2 A Bainbridge.
3 Q And you said he --
4 A No, no, no, not Bainbridge. Give me some islands.
5 Not Vashon.
6 Q Mercer?
7 A He lives on an island. Hartstene.
8 Q Hartstene?
9 A Yeah, there we go.
10 Q I know where that is, okay.
11 A Yeah.
12 Q All right. And he founded the Citizens for Tax
13 Justice?
14 A I -- you know, since I'm under oath, I don't want
15 to say that for a fact.
16 I think he was involved at the beginning of
17 it, but I'm not sure. I know he was active with a
18 lot of, you know, groups in D.C. and he was on the
19 ground level with a lot of citizen action --
20 Citizen Action, for instance, is one that he was
21 involved in, but I -- for the record, I don't want
22 to say that he was or wasn't.
23 Q I notice in your documents that were provided,
24 there are a number of documents from the Citizens
25 for Tax Justice.

1 A Right. Yeah.

2 Q Is that an organization financed by the tobacco
3 industry?

4 A I don't think so.

5 Q Do you know if there is any role of the tobacco
6 industry in that particular organization?

7 A I know that they came to several of our
8 conferences, and have been coming to conferences
9 to talk about tax regressitivity in the states. I
10 think you've got the documents and you probably
11 went through that there, and it's the focus of Bob
12 McIntyre, who I think is still the executive
13 director, is -- I've seen him on PBS. He is
14 quoted quite a few times in the paper on taxes.
15 He is a tax expert, and the regressitivity issue
16 is where they come in.

17 Q Let's talk about, again, the LMC and the local
18 Washington chapter.

19 What has been the role of the Tobacco
20 Institute with respect to that committee?

21 A I sit in with the industry lobbyist for briefings
22 and that type of thing --

23 Q That would have been Bill Fritz, historically?

24 A Yeah, and all.

25 My -- I get instructions on what to work on,

1 what issues to work on, from the LMC. I don't get
2 instructions from TI or Philip Morris or RJR.

3 If the issue is compatible and it's one that
4 the LMC feels is one that I should work on, then I
5 work on it. If it's not, then I don't.

6 Many of the meetings that I attend, I don't
7 have anything to do with anything they're talking
8 about, so I just sit there.

9 Q I take it you're aware of who the members of the
10 Tobacco Institute are?

11 A The companies, you mean?

12 Q Yes.

13 A I assume all the companies.

14 Q Do you know the history of the Tobacco Institute,
15 why it was founded, when it was founded, who
16 was -- who founded it?

17 A No. I assume it's a trade association, like other
18 institutes.

19 Q But you knew that the companies certainly are the
20 Tobacco Institute?

21 A Sure.

22 Q And that the Tobacco Institute, as a member of the
23 LMC, therefore voices the views and positions of
24 the tobacco --

25 A Sure.

1 Q -- industry?

2 A No, I recognize that.

3 Q And then you said that if there is a particular
4 piece of legislation, you are then told by the LMC
5 what to work on?

6 A Yeah. The -- you know, we look at the issues that
7 the LMC is interested in. If it's an issue -- and
8 sometimes we disagree with the -- with the
9 companies and all, but if it's an issue that they
10 are -- an example?

11 Q Uh-huh.

12 A Privacy; you know, the ability of an employer to
13 fire somebody or refuse to hire somebody because
14 they either smoke or do other legalized activity
15 off duty that doesn't have any impact on their
16 job. That's an issue that I would get involved
17 in.

18 A lot of the tax issues, specifically with
19 respect to, you know, health care and that type of
20 thing, I never got involved in because that was
21 not a position that the LMC wanted to take.

22 Q Well, I saw some documents in your group of
23 records that relate to that issue, "that issue"
24 being whether or not it's an invasion of privacy
25 to terminate or not hire somebody --

1 A Right.

2 Q -- because they smoke.

3 A Right.

4 Q And what was the position of the LMC with respect
5 to that?

6 A Oh, we supported that bill.

7 Q So you -- you supported a bill that would do what?
8 Prevent discrimination against smoking?

9 A Yeah, yeah. You know, recall here is kind of --
10 that bill got vetoed, and so I forget about those.

11 The bill would have made it an unfair
12 practice, and I'm just going from memory here, to
13 discriminate against somebody in hiring or, you
14 know, terminating somebody because of legal
15 activities off duty. I think it had provisions in
16 there for two-tier insurance rates that if the
17 insurance -- and that was mainly because the
18 insurance companies were concerned about their
19 liability, and I forget all -- I forget the
20 details, but it was a pretty contentious issue in
21 '91 or '92 or '93.

22 Q All right. Let's go back to the history of your
23 involvement, then.

24 So beginning in 1989 or 1990, you first
25 started to work for the LMC, and you've worked for

1 them ever since?

2 A Yeah.

3 Q And you have a contract with the LMC?

4 A Yeah, I do, but I -- when you requested that, I
5 couldn't find it.

6 I get a yearly contract.

7 Q It's renewable annually?

8 A Yeah.

9 Q And what do they pay you to be the lobbyist for
10 the LMC?

11 A Presently?

12 Q Yes.

13 A \$2750 a month, and --

14 Q What was it, say, back --

15 A \$2500. It was \$2500 back until a year ago or so,
16 and then there was a couple of months that I got
17 \$3,000 because they got an increase for everybody,
18 and then -- but for the most part it's \$2500.

19 MR. MURRAY: Mr. Daniels, for
20 the court reporter, you've got to wait until
21 Mr. Leedom is done asking the question --

22 THE WITNESS: Oh, I'm sorry.

23 MR. MURRAY: -- before you talk.

24 THE WITNESS: I'm sorry.

25 Q (By Mr. Leedom) And what percentage of your time

1 do you spend working on LMC-related matters in a
2 given year?

3 A It's hard to say, and it varies, of course,
4 because --

5 Q Sure.

6 A There is months that I don't do anything during
7 the summer, and I frankly don't do anything for
8 anybody else because there is nothing to do.

9 I would say it's probably -- I don't know.
10 It's hard to say. Ten percent, fifteen percent of
11 my time.

12 Q All right. We're going to go into some
13 specifics later, but I want to know what other
14 tobacco-related lobbying work you've done, besides
15 for the LMC, since 1989.

16 A Most recently, just last session and --

17 MR. MURRAY: Mr. Daniels, I want
18 to caution you that anything after June of 1996,
19 for the record, you can identify it, but I don't
20 want you to talk about it, pursuant to the court's
21 order.

22 THE WITNESS: Oh, okay.

23 MR. MURRAY: So make sure you
24 tell the dates.

25 Q (By Mr. Leedom) Just tell me who it is, and we'll

1 figure out, based on the date, whether or not I
2 can go into any more specifics.

3 A Okay. 1997 session, organization called the
4 Washington -- it's in the forms here. I've got to
5 remember. Washington State Cigar Retailers for
6 Fair Taxation, and that was also a 1998 session.

7 Q Anybody else that you've worked for, since 1989,
8 that has any relationship with the tobacco
9 industry?

10 A No.

11 Q And let me just clarify my question, give you an
12 example.

13 There is an organization, I'm sure you're
14 familiar with, called the Washington Association
15 of Neighborhood Stores?

16 A Right.

17 Q And Mr. Bentler is their lobbyist.

18 A Right.

19 Q And it turns out that one of the members is the --
20 I believe the Tobacco Institute and the -- there
21 is a board and there is a Tobacco Institute or a
22 company, I forget which -- it might be RJR --
23 that's on the board.

24 So I'm looking for anything that might be
25 indirectly related to the tobacco industry, as

1 opposed to a direct link such as LMC that we've
2 discussed.

3 MR. MURRAY: Objection to form
4 and move to strike.

5 A Well, the answer is "no."

6 Q (By Mr. Leedom) Okay. So let's go back to the
7 LMC, then, and ask you in the past, I guess, eight
8 years, who has been your contact person, or
9 persons probably, in that period of time that you
10 take your directions from?

11 A Again, Frank Hurt and Bob Curtis are the policy
12 guys, I suppose, for lack of a better word, and
13 then Jim Savarese -- Savarese & Associates,
14 they're the facilitator.

15 Q How do you spell the Savarese?

16 A S-A-V-A-R-E-S-E, maybe.

17 Q It's Jim?

18 A Yeah, Savarese & Associates.

19 Q What kind of company is that?

20 A It's a -- the best of my knowledge, it's a
21 consulting firm and they have -- they do a lot of
22 work in the labor area. Jim is a former AFSME
23 public employee sector person, Harry Kaiser is out
24 of the building trades. They're labor-oriented.
25 They work on issues involving labor.

1 Q Let's talk about some of the issues that you have
2 worked on for the LMC in the last seven or eight
3 years. And I'm focusing now up until June of
4 '96 --

5 A Okay.

6 Q -- because that's the cut-off that we're dealing
7 with. So from '89 to '96.

8 Can you flag for me the major issues you
9 worked on for the LMC during that period of time?

10 A Sure.

11 Q And then I may or may not have specific questions,
12 depending on what they are.

13 A Yeah, in terms of lobbying, and I think that's
14 where you're trying to get at, only a handful of
15 issues that I've actually been actively involved
16 in: Workplace smoking policies, there were
17 several -- and I've worked on those prior to
18 coming to work with LMC. I worked on those as a
19 lobbyist for the International Federation of
20 Professional and Technical Engineers, but
21 workplace smoking policies, employee privacy,
22 indoor air quality, some minor work on taxes as a
23 part of an overall tax policy type approach.

24 That's about it that I can think of right now.

25 Q Did you work on anything related to youth access

1 to tobacco products?

2 A No, not with the LMC. In fact, I had specific
3 instructions not to get involved with issues
4 involving youth access.

5 I did work on the youth access bills recently,
6 but that was on behalf of the United Food and
7 Commercial Workers Union and it was on very
8 specific items within those bills involving
9 penalties --

10 MR. MURRAY: Mr. Daniels, I
11 don't want you -- this is after the time.

12 THE WITNESS: That's post-1996,
13 okay.

14 Q (By Mr. Leedom) Is that right, what you've just
15 talked about, which is penalties for youth access,
16 that's an issue that was after '96?

17 A Yes. These are bills that -- they just passed, in
18 fact; supported by everybody now.

19 Q Let's sort of take them in reverse order.

20 When you say tax issues, does that relate to
21 the excise tax on tobacco products?

22 A Right.

23 Q And tell me what has been your experience on that
24 particular issue.

25 A It was primarily to educate legislators and staff

1 on the regressivity of Washington state's tax
2 structure, excise taxes being a part of that, and
3 primarily -- we never did have any bills, per se,
4 but it was to talk about the disproportionate
5 impact that excise taxes and our tax structure has
6 on working families and minorities, et cetera; a
7 lot of the data that CJT has, "Nickels and Dimes,"
8 that one publication, I think you've seen that.

9 Q So what sort of arguments would you make to
10 legislators on the subject of excise taxes?

11 A That they disproportionately affect people in
12 lower income brackets. It's consumption tax, and
13 people making less than \$25,000 a year pay a
14 higher percentage of their income on these taxes
15 than people who make, you know, large amounts of
16 money.

17 Q And that's one argument. What other arguments did
18 you make?

19 A A lot of it was comparison, you know, between this
20 state and other states, as to -- and again, in the
21 overall context of the tax structure of the state,
22 the state does not have an income tax. It is
23 recognized as one of the most progressive states,
24 tax-wise, in the country. But again, in terms of
25 the -- all the stuff that I've done for LMC, this

1 was a fairly minor -- minor part, I think.

2 I arranged for some briefings, you know, for
3 people to come in and brief legislators and other
4 groups, that type of thing.

5 Q Were there specific pieces of legislation in the
6 time frame we're talking about, from '90 through
7 '96, involving proposed tax increases on tobacco
8 products that you opposed?

9 A No. There was the increase as part of the Health
10 Care Reform Act, or whatever it was called in
11 1993, that had a dramatic increase, but I was not
12 involved in that for LMC.

13 Q I'm just wondering, then, when was it that you
14 would have the opportunity to talk to legislators
15 about tax issues in which you would make these
16 arguments concerning disproportionate impact and
17 try to compare other states with Washington?

18 A A lot of it was in casual meetings. The only
19 formal meeting I -- if you want to call it that,
20 that I did arrange a briefing for the house and
21 senate democratic caucus, and I forget what year
22 it was, '91, '92, something like that, with David
23 Wilhelm came out and --

24 Q Who was that?

25 A David Wilhelm.

1 Q And who was he?

2 A David Wilhelm is a Chicago-based -- he was a -- he
3 was involved with the Citizens for Tax Justice.
4 He was involved with the whole -- he ran for
5 congress, he ran Bill Clinton's presidential
6 campaign in 1992 and was later the chair of the
7 national democratic party. And he was a
8 recognized tax expert -- I think it was under the
9 auspices of CJT, I'm not sure.

10 Q When you say CJT?

11 A Citizens for Tax Justice.

12 Q CTJ?

13 A CTJ, there we go. I'm terrible with acronyms.

14 Q And what was the position that Mr. Wilhelm was
15 espousing during this briefing of the house and
16 senate groups?

17 A I did not attend the meeting because it was a
18 caucus, closed-door situation. I pretty much just
19 facilitated. I, you know, got him in there,
20 introduced him to the majority leader and that
21 type of thing. But I've seen the presentation,
22 and it's a comparison of, you know, Washington
23 state's tax structure as opposed to the rest of
24 the nation and the high reliance that we have on
25 excise and consumptive taxes such as gasoline,

1 cigarettes, alcohol, the fact that there is no
2 progressive income tax in Washington state. And
3 it was just to educate them to the point that our
4 tax structure is screwed up. B&O tax, we went
5 into that.

6 Q I hope you're not here advocating income tax here
7 in the state of Washington.

8 A I personally believe income tax is the way to go,
9 but it's never going to happen, I don't think.

10 Q Well, what was the position, then, that you were
11 advocating on behalf of the LMC with respect to
12 taxes on tobacco products? Were you advocating
13 that they should be increased or decreased?

14 A I think accurately I was saying that you shouldn't
15 increase them because of the disproportionate
16 impact that it has on working people, low income.
17 But again, I don't think I ever testified and I
18 don't think I ever asked a legislator not to vote
19 on increasing taxes. It was more of an
20 educational...(Pause.)

21 Q You know, I saw in your statistics where it
22 appears that people that are in the lower income
23 groups and non-whites continued to be heavier
24 users of tobacco products.

25 A That's what I understand from information I've

1 seen, too.

2 Q So does it make sense, then, that those groups,
3 lower-income minorities, would tend to have more
4 problems, health problems from tobacco products?

5 MR. MURRAY: Objection to form.

6 A I would assume.

7 Q (By Mr. Leedom) So do they not only bear a
8 disproportionate share of taxes, but they also
9 bear a disproportionate share of health problems
10 related to tobacco use?

11 MR. MURRAY: Objection to form.

12 A It makes sense.

13 Q (By Mr. Leedom) Have you ever researched that?

14 A Not really.

15 Q And there is some documents in your files that
16 talk about that subject?

17 A Right.

18 MR. MURRAY: Objection to form.

19 Slow down a little bit, Mr. Daniels, so I can
20 have time to object.

21 THE WITNESS: Okay.

22 A A lot of the stuff that you've got in that file, I
23 just threw together because it was stuff that's
24 left over. I -- I've read some of it, some of it
25 I haven't read.

1 Q (By Mr. Leedom) There is other information in
2 your records which would suggest that if taxes are
3 increased on tobacco products, consumption will go
4 down.

5 Is that something you accept or that you
6 believe?

7 A Yeah, to a certain extent. I think if you do
8 raise the taxes, you know, the consumption might
9 go down. I also think that if you -- you know, if
10 you -- especially with youth, if -- you've raised
11 the taxes so much in the last four, five years
12 and, yet, youth smoking keeps going up. So I
13 don't know.

14 Q Have you tried to figure out why that is?

15 A No. I've thought about it.

16 Q What have you thought about it?

17 MR. MURRAY: Objection to form.

18 A Well, I think that kids are kids. I mean, when I
19 was going to high school, people would sneak off
20 behind the bathroom and smoke because it was cool.
21 And we've had them -- a real aggressive effort to
22 try to curb youth smoking for the last five years,
23 that I'm aware of, and again, it's having the
24 opposite effect.

25 That's my personal opinion. I think if you

1 have black-and-white labels on cigarettes with a
2 big skull and cross-bones, you'd get a bunch of
3 kids to come in and buy them because they're kids,
4 so...(Pause.)

5 Q Do you think advertising by tobacco companies has
6 any impact on youth purchasing and utilizing
7 tobacco products?

8 MR. MURRAY: Objection to form,
9 beyond the scope.

10 A Personally I don't think so. I mean, that's my
11 personal opinion.

12 Q (By Mr. Leedom) Why do you think the tobacco
13 industry spends \$6 billion a year on advertising?

14 MR. MURRAY: Same objections.

15 A To sell their product.

16 Q (By Mr. Leedom) To who?

17 A I would assume to adults, but I mean --

18 Q Do you really believe that?

19 MR. MURRAY: Objection to form,
20 asked and answered.

21 A Personally?

22 Q (By Mr. Leedom) Yeah.

23 A You know, I've watched a lot of television, I've
24 read a lot of articles. Conceivably I think there
25 might be some evidence that tobacco companies did

1 market or try to market to youth, but I -- I mean,
2 this is all personal opinion, just like any
3 citizen reading a newspaper. I don't have any
4 information that I've been given that says that
5 they have or haven't.

6 Q This lawsuit that we're here about has been going
7 on for a couple years. Have you been provided
8 with any documents, any letters, memos, internal
9 documents from any of the companies which suggest
10 that the companies, in fact, did target youth for
11 their products?

12 MR. MURRAY: Objection to the
13 form, but also objection to the scope. This is
14 beyond the scope.

15 A No.

16 Q (By Mr. Leedom) Have you attempted to get any
17 such documents?

18 MR. MURRAY: Same objections.

19 A No.

20 Q (By Mr. Leedom) Did you follow that Minnesota
21 trial that just settled recently?

22 MR. MURRAY: Same -- wait.

23 Same objections.

24 A Yes, I saw a few articles on it.

25 Q (By Mr. Leedom) Did you see any reports in the

1 newspaper about internal documents from various
2 companies which indicated they were targeting
3 minors for use of their products?

4 MR. MURRAY: Same objections,
5 and we're about two questions from going to the
6 judge.

7 A I can't recall. I mean, I read -- I saw Skip
8 Humphrey in a news conference and saw a few
9 articles on it, but...(Pause.)

10 I'm aware of the Minnesota case, but I haven't
11 paid that much attention to it. I haven't been
12 briefed on it or I don't know all the details,
13 other than what I see in the media.

14 THE WITNESS: Can I get some
15 water?

16 MR. LEEDOM: Yes, here.

17 Does anybody want anything else to drink, by
18 the way? There's other beverages here.

19 (Discussion off the record.)
20

21 Q (By Mr. Leedom) All right. Back to this issue of
22 taxes and tobacco products.

23 Do you believe that if taxes are increased on
24 tobacco products, that consumption of those
25 products will be reduced?

1 MR. MURRAY: Go ahead.

2 THE WITNESS: Okay.

3 A I think it depends on what other states and -- you
4 know, because if you increase taxes, and I see it
5 with the cigar situation in Washington state where
6 you have a 75 percent tax at wholesale, people buy
7 them from elsewhere.

8 I mean -- so I think if you -- if you increase
9 taxes nationwide, then you could probably have an
10 effect. If you do it state by state, then you're
11 going to end up with contraband, black market,
12 reservation sales and that type of thing.

13 Q (By Mr. Leedom) I saw those documents.

14 Is it your understanding that the tobacco
15 industry wants to keep taxes down, either by not
16 changing them, not increasing them or reducing
17 them, so that consumption of their products will
18 stay high?

19 MR. MURRAY: Objection to form,
20 and it's outside the scope.

21 A Oh, yeah. I -- I think they're just like
22 everybody else, you know. Any time you raise a
23 tax in Olympia, you get thousands of screams from
24 businesses they have that have to pay it or
25 collect it. So in some respects, they're no

1 different than any other business.

2 Q (By Mr. Leedom) So in the time frame we're
3 talking about here, in the '90 to '96 time frame,
4 certainly you, on behalf of the tobacco industry,
5 never advocated an increase in the taxes on
6 tobacco products, did you?

7 A No.

8 Q And were there times in this time frame that you,
9 in fact, advocated a decrease in those taxes?

10 MR. MURRAY: Objection; asked
11 and answered.

12 A As I stated before, I -- I did some briefings and
13 I talked casually with legislators. I don't
14 recall ever asking a legislator to vote against a
15 tax increase or I -- I certainly never testified
16 in committee, but I did talk about the issue and
17 the impact that it has.

18 I also talked to other unions that were
19 interested in the -- in that issue.

20 Q Now, you're familiar with the other lobbyists for
21 the tobacco industry?

22 A Sure.

23 Q Mr. Fritz, Mr. Ducharme, Mr. Bentler, right?

24 A (Witness nods head.)

25 Q Again, I don't think I'll have to keep stating the

1 time frame, but just so you'll know, my questions
2 are going to relate to this '90 to '96 time frame.
3 A Okay.
4 Q That way I don't have to keep repeating that and
5 Mr. Murray won't have to object if we stray off of
6 that.
7 A Okay.
8 Q To your knowledge, did the other lobbyists for
9 the -- for the companies, such as Philip Morris
10 and RJR, did they in fact oppose increases on
11 cigarette taxes in this time frame?
12 A I believe so, yeah.
13 Q And did you have meetings with those individuals
14 on occasion --
15 A Yes.
16 Q -- to discuss issues of importance to the tobacco
17 industry?
18 A I attended quite a few -- what do you call it? --
19 get-togethers, industry meetings where the company
20 and the TI people would be involved.
21 Q How often were those held?
22 A It varied. It varied. During session, sometimes
23 they'd meet once every two weeks; during the
24 interim, very sporadic, maybe once every couple of
25 months.

1 Q You're talking about during the session, now?
2 A Yeah, during the legislative -- when the
3 legislature is in session.
4 Q So like January to May --
5 A Yeah.
6 Q -- they would meet every two weeks?
7 A It would vary, but there would be a lot more
8 frequent meetings, of course, during session than
9 off session.
10 Q And how many people would attend these meetings?
11 A Oh, generally six to ten people.
12 Q Who would these people be, besides yourself?
13 A Yeah, the people that you've mentioned, that would
14 be -- Smokeless usually had somebody there, Philip
15 Morris, RJR, there would be somebody, you know,
16 from the Tobacco Institute, occasionally they'd
17 bring in somebody from back east to talk about
18 issues.
19 There was kind of a core group, you know, the
20 lobbyists there on the hill. And occasionally
21 there'd be a regional person for one of the
22 companies that would be there.
23 Q Was this true throughout the time period from '90
24 to '96?
25 A Yeah, pretty much.

1 Q Where would these meetings generally be held?

2 A In Olympia.

3 The one --

4 MR. MURRAY: Wait for the
5 question, Mr. Daniels.

6 THE WITNESS: What?

7 MR. MURRAY: Wait for the next
8 question.

9 THE WITNESS: Oh, okay.

10 Q (By Mr. Leedom) Let's just take some issues; for
11 example, the tax issue is one that we've been
12 talking about.

13 Were there meetings held concerning the
14 tobacco industry response to efforts to raise
15 taxes on tobacco products?

16 A Oh, yes.

17 Q Tell me about those meetings and what the upshot
18 was.

19 A They would talk about -- you know, the one that I
20 specifically remember is the -- you know, the tax
21 increase that came as a part of the Health Care
22 Reform Act of 1993 and, you know, they talked
23 about the dramatic increase that was being
24 considered and that type of thing.

25 Q I take it the industry opposed the tax increase on

1 tobacco products --

2 A Yes.

3 Q -- that was set forth under the Health Care Reform
4 Act?

5 A Yes.

6 Q And I realize you've said you didn't make any
7 speeches, but do you know whether or not
8 Mr. Fritz, Mr. Bentler, Mr. Ducharme, or any other
9 tobacco lobbyist made any presentations to any
10 legislators or legislative committees?

11 A I'm assuming they did. I don't, you know, have
12 firsthand knowledge. I wasn't at the hearings or
13 anything, and I'm assuming that's what they get
14 paid for. So they did advocate their position.

15 Q All right. Let's talk about the Health Care
16 Reform Act in a little more detail now.

17 What other provisions of the Health Care
18 Reform Act of 1993 did the tobacco industry take a
19 position on, besides the tax issue that we've
20 already talked about?

21 A I'm not really sure. And to be honest with you,
22 the Health Care Reform Act of 1993, I stayed away
23 from it as much as I could because it -- it was
24 just a voluminous issue that I really didn't have
25 any part of.

1 The only part that I had in it was late in the
2 game with UFCW, where they had some questions
3 about some impact -- potential impact on their
4 programs, their insurance programs that they
5 currently were under. And to my memory, I think I
6 only had one -- one meeting involving the Health
7 Care Reform Act, and that was late in the game
8 where I sat down with representatives from Boeing
9 and some of the business community, and we had a
10 couple of labor people getting in there, talking
11 about what the potential impact on our health
12 programs were going to be.

13 Q Okay.

14 A But I steered clear of that sucker.

15 Q What about the issue of youth access to tobacco
16 products? What position did the industry take
17 with respect to those efforts?

18 A Are you talking post-1996?

19 Q In the '90 to '96 time frame.

20 A I don't recall any -- again, that's an issue that
21 I wasn't involved with, and I don't recall any
22 bills. There probably was, but I don't -- I know
23 more post-1996 than I do, you know, pre-1996.

24 Q Do you remember attending meetings where people
25 would discuss various bills relating to youth

1 access; limiting youth access, penalizing those
2 that allow youth access? Do you remember any
3 bills like that being discussed?

4 A They probably did discuss them. I don't -- again,
5 the meetings, when I would attend, if they weren't
6 talking about something that I was going to be
7 involved with, I generally didn't pay that much
8 attention to it. Most of these meetings, I forgot
9 to indicate, were lunch meetings, so I'd eat while
10 they talked.

11 MR. MURRAY: Mr. Daniels, don't
12 speculate. Don't guess.

13 THE WITNESS: Okay.

14 Q (By Mr. Leedom) In terms of the youth access
15 issue, what was the position of the tobacco
16 industry on that subject?

17 MR. MURRAY: Objection to
18 foundation and form.

19 A Prior to 1996, I don't recall. I know what the
20 position has been since, but --

21 Q (By Mr. Leedom) All right. Do you recall that
22 there was a bill whereby store owners would be
23 required to pay \$500, store owners that sold
24 tobacco products would be required to pay \$500,
25 monies of which would go towards prevention of

1 youth access to tobacco products? Do you remember
2 that bill?

3 A No.

4 Q You don't remember talking about that?

5 A I -- I remember bills after 1996 that had
6 penalties and --

7 MR. MURRAY: Mr. Daniels, the
8 question is only pre-'96, so you don't have to
9 qualify --

10 A Okay. No, I don't remember.

11 Q (By Mr. Leedom) Let's talk about workplace
12 smoking policies for a minute.

13 Now, you've spent a lot of time on that issue
14 over the six-year time frame we're talking about?

15 A Mainly in the early -- early years.

16 Q And what position did you advocate on behalf of
17 the tobacco industry with respect to ETS, or
18 environmental tobacco smoke?

19 A Say that again.

20 Q What position did you advocate on behalf of the
21 tobacco industry, your clients specifically, on
22 the subject of environmental tobacco smoke?

23 MR. MURRAY: Objection to form.

24 A I don't recall really talking about ETS. When I
25 say workplace smoking policy, I'm talking about

1 the ability of the employer to unilaterally ban
2 smoking or to designate areas without consulting
3 with the collective bargaining representative.

4 Q (By Mr. Leedom) I'm going to come to that. But
5 you're familiar with the environmental tobacco
6 smoke issue?

7 A Yes.

8 Q In fact, you have documents that deal with the
9 subject of whether or not the state, for example,
10 was acting properly to prevent smoking in
11 buildings, such as we're in here?

12 A Yes.

13 Q And what position did the tobacco industry take
14 with respect to that issue?

15 MR. MURRAY: Objection to form
16 and foundation.

17 A I know what position I had. I don't know --

18 Q (By Mr. Leedom) What position did you have?
19 Let's start with that.

20 A Well, the position that I advocated, and again,
21 this was kind of early in the time period that
22 we're talking about, was a position that I
23 advocated prior to working with them, and that
24 was that if you had a smoking policy, that was a
25 condition of employment, it's a workplace

1 condition, and that if you had a collective
2 bargaining agreement, then that should be a matter
3 that's between the union and the employer. And it
4 was a national AFLCIO position up until recently.

5 Q Well, I'm asking about a little different issue.

6 Are you familiar, for example, with the
7 litigation, the hearings, the court lawsuit in
8 Thurston County, whereby the industry attempted to
9 block regulations that would have prohibited --
10 did prohibit smoking in the workplace -- in
11 buildings?

12 A I'm aware of it. I don't know the details or
13 anything.

14 Q Are you aware that the tobacco industry took a
15 very strong position against that regulation?

16 MR. MURRAY: Objection to form.

17 A For clarification, what regulation?

18 Q (By Mr. Leedom) The regulation that prohibits,
19 now, smoking in buildings.

20 A L&I.

21 Q Yes.

22 A The L&I --

23 Q Yes, that issue, Mr. Brown's issue.

24 A Yeah, I'm aware that they opposed it.

25 Q Okay. Tell me, first of all, when you're aware of

1 so we're making sure we're talking about the same
2 thing.

3 A Well, L&I came out with a ban, or pretty much a
4 ban, on workplace smoking sometime in 1992, '93, I
5 forget exactly when, and it was strictly, I think,
6 dealing with smoking, and it became a WAC. And
7 there was opposition to it.

8 Q In fact, you have the WAC regulations --

9 A Right.

10 Q -- and the state law that came out of that in your
11 materials here?

12 A Right.

13 Q And what position did the tobacco industry take
14 with respect to the L&I regulations?

15 A Oh, I think they opposed them.

16 Q Did you know they actually filed a lawsuit to
17 prevent them from being implemented?

18 A Yeah, I remember that, now that you bring it up.

19 Q And did you know that the tobacco industry lost
20 that lawsuit?

21 A I'm assuming they did, since the reg is still in
22 effect.

23 Q Did you personally, on behalf of the LMC, advocate
24 any position on that issue?

25 A On --

1 Q The L&I.

2 A On the workplace --

3 Q Workplace regulation.

4 A Yes, I did. I was a member of the indoor air
5 quality task force that worked for almost two
6 years on trying to develop a comprehensive indoor
7 air quality policy for the state of Washington.
8 And I did that on behalf of the International
9 Federation of Professional Technical Engineers and
10 LMC.

11 Our position was that you had to have a
12 comprehensive approach to the problem rather than
13 just going in and taking ETS or tobacco as one
14 isolated item.

15 The recommendations that we had included
16 pretty much a standard for ventilation that would
17 have made it almost prohibitive to have a
18 designated smoking area. But again, when the
19 director came out, he did not -- he only put in
20 one section as it related to ETS. He did not look
21 at the other recommendations that the advisory
22 committee had.

23 Q So in the end, did you, on behalf of the LMC,
24 oppose the entire regulatory scheme on the basis
25 that it didn't provide a comprehensive solution?

1 A I didn't oppose the final regulation. I mean,
2 I -- I questioned it. I talked to Mark Brown
3 personally, you know, as to why he did what he
4 did, especially since we were told that we were --
5 "we" being the advisory committee, were going to
6 have a chance to try to work on a comprehensive
7 plan. I -- I asked him why he did that. And
8 you've read the memos and the correspondence in
9 the file as to why he came to that decision.

10 But in terms of opposing it, I didn't go out
11 and lobby against the rule. I'm trying to figure
12 out what --

13 Q That's fine.

14 In your experience as a lobbyist for the
15 tobacco industry, is one of the tactics the
16 industry uses is to oppose a bill affecting the
17 tobacco industry on a basis that is unrelated to
18 the actual thrust of the bill?

19 MR. MURRAY: Objection to form
20 and foundation. And in fairness to the witness,
21 he testified he represents the LMC.

22 Q (By Mr. Leedom) Go ahead.

23 A Say that question again.

24 MR. LEEDOM: I'll have her read
25 it back.

1 (Question on Page 60, Lines 13
2 through 18, read by the
3 reporter.)
4

5 A Give me an example.

6 Q (By Mr. Leedom) Well, an example is regulations
7 relating to smoking in the workplace, which the
8 tobacco companies oppose, and instead of directly
9 opposing it, they say, "Well, we really need a
10 comprehensive plan to handle a bunch of other
11 issues, so unless we can do it all together, we
12 can't just do this one thing." That would be an
13 example?

14 MR. MURRAY: Same objection as
15 the last question.

16 A I don't know if -- that's hard to answer because
17 I -- I can see why they wanted to get a
18 comprehensive -- if they were opposed to the
19 workplace smoking, and that's a lobbying tactic.
20 I mean, if you have a provision of a bill that you
21 don't particularly like, then you -- you try to
22 muddle the water, I guess. So -- but I mean, I
23 don't know if that was a concerted effort to do
24 that.

25 I mean, the LMC -- remember, you keep saying

1 tobacco companies. I don't work for the tobacco
2 companies, I work for the LMC. And that was one
3 of the positions that they had, was to develop a
4 comprehensive indoor air quality standard. It was
5 also the instructions I had from the IFPTE,
6 International Federation of Professional and
7 Technical Engineers, and also a position of quite
8 a few other unions that were concerned with indoor
9 air quality.

10 Q (By Mr. Leedom) All right. Let's go back to the
11 other issue you worked on relating to workers and
12 privacy and discrimination in terms of smokers in
13 the employment area. Could you sort of frame the
14 issue as you approached it?

15 A The privacy bill?

16 Q Yes.

17 A Yeah. As I indicated, the bill would make it an
18 unfair practice for an employer to discriminate,
19 refuse to hire, fire somebody that used a lawful
20 product off duty, as long as that usage did not
21 interfere with the job performance or the ability
22 of that person to perform the job.

23 Q Okay. And when did that issue arise?

24 A I want to say the early '90s.

25 There was a very well-publicized article on

1 Alaska Airlines refusing to hire smokers that
2 popped up in '90, '91, '92. A close friend of
3 mine was an employee of Alaska Airlines at the
4 time. Long before the LMC got involved with this,
5 I remember talking to him about it. And he did
6 smoke. He was grandfathered in, but he was kind
7 of fearful of losing his job because of that.

8 There was several legislators that, again,
9 without me talking to them, that expressed an
10 outrage on that. The ACLU became very involved in
11 it.

12 The LMC looked at the issue and I was told to
13 work on that. That's something that they would be
14 interested in.

15 Q All right. And this is a situation where there
16 was an actual law proposed --

17 A Right.

18 Q -- that would prohibit these practices?

19 A Right.

20 Q And you, on behalf of the LMC, advocated that
21 these laws be passed?

22 A Correct.

23 Q Now, wasn't one of the goals of the tobacco
24 companies to, in essence, protect smokers?

25 MR. MURRAY: Objection to form

1 and foundation.

2 A I -- the issue of smokers' rights popped up here
3 and there during the whole debate on the bill.
4 That was not the message that I was sending.

5 Q (By Mr. Leedom) Well, I understand, but getting
6 back to this tactic issue, were you instructed to,
7 on behalf of LMC, advocate the position of
8 supporting this legislation with a secondary goal
9 of, therefore, protecting smokers and encouraging
10 people to continue to smoke on the job?

11 A No.

12 MR. MURRAY: Objection to form.

13 THE WITNESS: Oh.

14 MR. MURRAY: Go ahead.

15 A No.

16 Q (By Mr. Leedom) That didn't cross your mind?

17 MR. MURRAY: Same objection.

18 A No.

19 Q (By Mr. Leedom) Nobody ever came out to talk to
20 you about that at one of these meetings?

21 A Not that I can recall.

22 Q Does that make sense to you that logically, by
23 supporting such legislation, it protects smokers
24 and encourages people to continue to smoke on the
25 job?

1 MR. MURRAY: Objection to form,
2 and at this point, it's beyond the scope.

3 Go ahead.

4 A I don't look at it that way.

5 Q (By Mr. Leedom) Why not?

6 A I think I go strictly to the privacy core of that
7 issue, is that if -- for instance, I smoke a pipe.
8 If I smoke a pipe at home, I don't do it on the
9 job, it doesn't have any impact, I've never missed
10 a day of work, or it doesn't have any impact on my
11 ability to perform my job. I don't think it's any
12 of the employer's damn business what I do off
13 duty. And I feel very strongly about that.

14 Like I say, seeing my friend at Alaska
15 Airlines worry -- being 25 years working for a
16 company, that he was worried about losing his job,
17 and going through the trauma that he had of the
18 uncertainty and knowing other cases where people
19 have been refused employment because of that, I
20 think it's grossly unfair.

21 Q Why do you think the employers were taking this
22 action that you opposed, as you've testified?

23 A Their arguments, which, you know, are legitimate
24 arguments, is that health costs for smokers are
25 higher and they want to maintain a smoke-free

1 workplace and that type of thing.

2 Those are legitimate arguments. I just
3 disagree, that the invasion of privacy and, you
4 know, depriving somebody of their livelihood I
5 think is a stronger argument.

6 Q Well, wasn't part of the debate whether or not to
7 allow smokers to smoke on the job?

8 A Not during the -- not to my recollection during
9 the privacy deal. That came up numerous times,
10 but, you know, we made it abundantly clear that
11 this did not have any impact on workplace smoking
12 policies. That's a separate issue.

13 Q Okay.

14 A This is on off-duty, you know, consumption.

15 Q Well, now, so the argument on the other side of
16 where you were was, even though people smoke off
17 duty, the health care costs for those people is
18 going to be higher and, therefore, we want to
19 limit our pool of employees to reduce our health
20 care costs?

21 A Right.

22 Q That was their argument?

23 Did you do any research into that to see if
24 that had any validity?

25 A I don't think I did any direct research. I did,

1 though, after meeting with some of the insurance
2 companies and some of -- you know, legislators
3 have had objections based on that. We did have a
4 provision added to the bill that would allow a
5 two-tier insurance, you know, program where you
6 could charge smokers more and nonsmokers less.

7 Q Wasn't that found to be discriminatory by the
8 insurance commissioner?

9 A The bill never passed.

10 Q So it never got to that point?

11 A Right. Or it passed but it got vetoed, I think.

12 Q In your documents, there is a number of documents
13 that relate to the health care costs of smoking,
14 right? You've seen that?

15 A Yes.

16 Q So did it make sense to you that in fact smokers
17 or the users of tobacco smokes, be they cigar
18 smokers or smokeless users or cigarette users, in
19 fact have higher health care costs?

20 MR. MURRAY: Objection, form,
21 and asked and answered.

22 Go ahead.

23 A Personally, I think as a class they do. I think
24 on an individual basis, it, of course, varies.

25 Q (By Mr. Leedom) All right. So ultimately your

1 proposal that you were supporting on the basis of
2 privacy was -- did not become law?

3 A No, it passed the house and senate and was vetoed
4 by then-Governor Gardner.

5 Q All right. Another issue you said that you spent
6 quite a bit of time on -- maybe we've just covered
7 this -- was the employee privacy issue. That's
8 what we just talked about.

9 Was there any other legislation or any other
10 time that that issue came up in the six-year
11 period, beyond what we've already discussed?

12 A No. It was -- there were bills introduced in, I
13 think, three consecutive years that dealt with
14 that in one form or another, culminating in the --
15 I believe -- well, Gardner was governor in '92,
16 yeah, because that was the election, so it
17 culminated in the 1992 session. And with the
18 veto, I don't think -- I don't recall if there was
19 bills reintroduced on it after that.

20 Q Okay. Then another subject was indoor air
21 quality.

22 A Right.

23 Q Tell us about your involvement with that issue.

24 A Again, with indoor air quality, kind of working
25 for two -- two people -- or two entities at the

1 same time, International Federation of
2 Professional and Technical Engineers,
3 Seattle-based union, had major concerns about air
4 quality in various buildings here in Seattle,
5 public buildings, because they represented public
6 employees. Some of the other unions also had
7 concerns about it.

8 LMC supported the comprehensive approach.
9 Again, I think it was more reactive to the fact
10 that you saw more and more smoking bans coming out
11 where there was unilateral changes by the employer
12 to just ban smoking and not look at the issue as a
13 whole.

14 Q When you say comprehensive approach and not
15 looking at the issue as a whole, what are you
16 referring to?

17 A Looking at the HVAC system, how it's set up,
18 maintenance of such system, ventilation, all the
19 factors that deal with indoor air quality.
20 Tobacco, environmental tobacco smoke is certainly
21 part of that, but then there is other factors that
22 are involved.

23 Q Well, so what was the argument the tobacco
24 industry made on the issue of indoor air quality?

25 MR. MURRAY: Objection to form.

1 Q (By Mr. Leedom) That you made on behalf of the
2 LMC. That's maybe better put.
3 A That we supported a comprehensive approach to it.
4 Q In other words, let's take a look at all the
5 potential air quality components --
6 A Correct.
7 Q -- and not just single out tobacco?
8 A No, not just single it out; take a look at
9 everything, including tobacco.
10 Q All right. And so again, by saying there is a
11 comprehensive approach, the tobacco companies,
12 and specifically the LMC, was arguing against the
13 air -- indoor air quality standards that were
14 being promulgated?
15 A The standards that were promulgated, the rule that
16 came out in 1992, was the result of a two-year
17 process. I mean, there was enabling legislation
18 that created a task force passed in '90, '91, and
19 then there was a task force put together of health
20 people, technical types, people that actually do
21 maintenance on buildings, you know, a whole myriad
22 of -- well, you've got the information in the
23 file, that served on this task force to look at
24 all aspects of it, and it was a very exhaustive
25 process.

1 Q What was the result?

2 A We came out with a recommendation that -- and I
3 don't recall all the details of it. I hadn't even
4 looked at it since I got off the committee, but I
5 know we had certain recommendations on changing
6 filters, standards, and that type of thing, and
7 included, like I say, some provisions on
8 ventilation for smoking and that type of thing.

9 I know at the time, the industry did not
10 particularly like the recommendations that came
11 out of the task force. I -- I think I got a call
12 saying that, you know, wait a minute, this is not
13 what we want, but it's what the committee came up
14 with and we thought it was the right thing to do.

15 Q The industry did oppose, though, the
16 recommendation of the task force?

17 A I don't know if they openly opposed it. I think
18 they had some concerns with it at the time.

19 Q So at the beginning of that process, that two-year
20 process, the tobacco products that were creating
21 the smoke and creating air quality problems, those
22 were singled out at the beginning, correct?

23 A What do you mean?

24 Q Well, isn't it true that at the beginning of this
25 air quality issue, tobacco products and the smoke

1 from tobacco products was singled out as a topic
2 for regulation?

3 A Yeah, I believe they brought that up.

4 Q Yes. And then what happened was the tobacco
5 companies opposed the indoor quality regulations
6 and suggested there be a more comprehensive
7 approach, right?

8 A They opposed the recommendation of the task force,
9 my recommendation.

10 Q And then ultimately they opposed the
11 recommendations of the task force itself, which
12 was at the end of a two-year period, correct?

13 A I think -- when I say "oppose," that's probably a
14 bad word to use, because I don't think I was ever
15 told that they opposed it. I think they had
16 concerns with it. And other groups had concerns.
17 BOMA had some big concerns -- BOMA is Building
18 Owners Management Association, had some major
19 concerns.

20 So there was some major concerns with our
21 recommendations that came out. And there is a
22 letter that I think I turned over that where the
23 speaker of the house is communicating with the
24 Association of Washington Businesses, urging -- or
25 he is communicating with Mark Brown, urging them

1 not to implement this because the AWB didn't like
2 it. So...(Pause.)

3 Q Well, that's another tactic, isn't it, in
4 lobbying --

5 A Oh, yeah.

6 Q -- to go get other supporters to the position or
7 opponents to the position that you're advocating,
8 right?

9 A Sure.

10 Q And that's what the tobacco industry does, just
11 like other industries, correct?

12 A Sure. I mean, everybody does that.

13 Q But bottom line in this indoor quality issue was
14 that the tobacco industry didn't want to have
15 indoor quality regulations of smoking; isn't that
16 true?

17 MR. MURRAY: Objection to form,
18 asked and answered.

19 A I -- again, I can't say that, that they -- I was
20 never told that they opposed this directly from
21 them. I pretty much worked, like I say, as a
22 member of that task force, coming up with what we
23 thought was a workable solution.

24 We knew there was opposition from a lot of
25 people on it, and obviously since it wasn't

1 implemented and -- you know, it didn't make it.
2 Somebody killed it, but I can't say the tobacco
3 industry did it. I think the AWB had more to do
4 with it than they did.

5 Q (By Mr. Leedom) But bottom line, the tobacco
6 industry didn't want to have smokers of their
7 products prevented from smoking inside of
8 buildings or inside of workplaces; isn't that
9 right?

10 MR. MURRAY: Objection to form,
11 asked and answered.

12 A I would assume they'd have some concerns with it,
13 you know, but I never was told that.

14 Q (By Mr. Leedom) And the reason they would have
15 concerns is because if smokers were limited in
16 where they could smoke or where they could use
17 their products, then those smokers may not buy
18 their products to the extent they had before,
19 correct?

20 MR. MURRAY: Same objection.

21 A I don't know.

22 Q (By Mr. Leedom) That's logical, isn't it?

23 A Yeah.

24 MR. MURRAY: Same objection.

25 Q (By Mr. Leedom) And isn't that what people from

1 Washington, D.C. came out and told you and the
2 others that at these meetings that you would have
3 on occasion?

4 A I can't recall them telling me that.

5 Q What other issues -- and I'm going to suggest a
6 couple in a minute, but what other issues do you
7 recall that you addressed on behalf of the WMC --
8 LMC? Sorry.

9 A Which ones have you got there?

10 Q Well, we've covered --

11 A Workplace smoking.

12 Q -- privacy, indoor quality, and taxes.

13 A That's pretty much it, that I can recall. I can't
14 think of any other issue that I spent a lot of
15 time on.

16 Q There was an issue that came up, I believe it was
17 in the '93/'94 time frame, having to do with the
18 surpluses and monies that were available.

19 Do you remember that?

20 A Budget surplus?

21 Q Yes.

22 A Vaguely.

23 Q Did you play any role in trying to reduce a tax on
24 cigarette products because of an alleged surplus
25 in certain accounts that were funded by those

1 taxes?

2 A No.

3 THE WITNESS: I'm going to have
4 to go to the bathroom.

5 MR. LEEDOM: Let's take five.

6 THE WITNESS: I'm on a diuretic,
7 so --

8 THE VIDEOGRAPHER: We're going
9 off the record at 11:53.

10 (Recess at 11:53 a.m.)

11
12 THE VIDEOGRAPHER: We are back
13 on the record at 12:01.

14

15

16 EXAMINATION (Continuing)

17 BY MR. LEEDOM:

18 Q All right. Let me follow up on this privacy
19 issue, which we were discussing a few minutes ago.

20 Do you recall that the original thrust of
21 the issue was to prevent discrimination in the
22 workplace against any smoker?

23 A No.

24 Q And do you recall that what happened was after
25 that was initially rejected, then the argument

1 became that we should not discriminate against
2 smokers outside of the workplace?

3 MR. MURRAY: Objection;
4 foundation.

5 A No.

6 Q (By Mr. Leedom) Is it that you don't recall that,
7 or you're saying that's not the way it worked?

8 A I don't recall that is the way it went.

9 Q Now, do you have children?

10 A Yes.

11 Q How old are they?

12 MR. MURRAY: Objection; outside
13 the scope.

14 You can answer.

15 THE WITNESS: Oh.

16 A I have an adopted daughter that turns thirty and a
17 little girl that's six, so I have a big range.

18 Q (By Mr. Leedom) Has the adopted daughter been
19 your daughter for most of her life?

20 A Since she was nine, yeah.

21 Q Have you ever talked to your adopted daughter or
22 any of your children about the health hazards of
23 smoking?

24 MR. MURRAY: Objection. This is
25 beyond the scope of the judge's order.

1 You can answer.

2 A I haven't talked to my three- and six-year-old,
3 but I told Mary, my other daughter, that I didn't
4 think it was a good idea.

5 Q (By Mr. Leedom) Just limiting it to the time
6 frame that we're talking about, from '90 to '96,
7 which would have been when she was in her 20s,
8 what did you tell her?

9 A That she shouldn't.

10 Q Did you tell her why she shouldn't?

11 A I don't recall going into any details. She
12 started smoking and then she quit.

13 Q What was your reason for telling her not to smoke?

14 A I didn't think it was cool that she should do it.

15 I mean, she thought it was cool. I said,
16 "That's not cool and you don't need to smoke."

17 Q Were you concerned about the risk to her health?

18 MR. MURRAY: I think these
19 questions are outside the scope substantively.

20 But go ahead.

21 A I can't remember. I mean, I just said you
22 shouldn't -- she came home with a cigarette one
23 time and I said, "Oh, you shouldn't smoke." I
24 didn't go into any lengthy conversations or
25 debated with her over whether she should or not.

1 Q (By Mr. Leedom) What was your knowledge, prior to
2 1996, about the health risks of smoking?

3 A Pretty much what I get from the media and the --
4 you know, just common sense. I've always thought
5 that cigarettes were not the most healthy thing in
6 the world to do and...(Pause.)

7 Q Why did you think that?

8 A Again, just from casual information given from the
9 media, the reports. It says it right there on the
10 pack, you know, it causes cancer, so -- I think
11 more of common sense.

12 Q What is it that you read or saw in the media which
13 led you to the conclusion that smoking is not a
14 healthy activity?

15 A I can't recall one specific thing. I mean, it's
16 just -- again, I mean, I think just general
17 information that you pick up that smoking is bad.
18 People that smoke have a higher risk of, you know,
19 heart attacks, that type of stuff.

20 Q Give me more examples of what you saw or read
21 which led to your conclusion.

22 A Oh --

23 MR. MURRAY: Objection; outside
24 the scope.

25 But go ahead.

1 A That's a hard question. I mean, you know, all my
2 life -- I mean, I think the -- 1964 was when they
3 started talking about it. And I mean, all
4 throughout my life, I've been told that it's bad
5 or I've heard that it's bad, that type of thing.

6 I mean, I can't, you know, recall any specific
7 article or anything like that that I can point
8 back to.

9 Q (By Mr. Leedom) Did you believe, prior to 1996,
10 that smoking or the use of tobacco products caused
11 lung cancer?

12 A Yes.

13 Q Did you believe that the use of tobacco products
14 caused heart disease?

15 A Yes.

16 Q Did you believe that the use of tobacco products
17 caused emphysema?

18 A Yeah. I mean, I believe that smoking contributes,
19 you know, to those things. I mean, whether --
20 whether or not somebody -- my uncle Charlie lived
21 to be 101 and he smoked a pack of Camels a day and
22 never had any health problems, but you know, I
23 know of other people that have had health
24 problems. So I think it's all -- this is all
25 common sense.

1 Q What's common sense?

2 A That smoking, cigarette smoke, in my opinion, you
3 know, is a -- is a risk. I mean, that's why they
4 put the label on it. And if an individual smokes,
5 they understand they're taking that risk.

6 Q Did you ever communicate any of your beliefs
7 concerning cigarettes or tobacco products not
8 being healthy or causing these various diseases to
9 any legislators?

10 A Oh, I can't recall any specific incident, but I'm
11 certain that over a six-year period, you know, we
12 would talk about whether or not smoking is good
13 for you or bad for you in a casual deal. I don't
14 think it's part of any particular issue, you know,
15 that I worked on; i.e., the privacy bill. I spoke
16 strictly to the arguments on employee privacy on
17 that. I didn't -- I didn't argue the fact that
18 cigarettes were not bad for you.

19 Q As a lobbyist advocating your position, did you
20 believe it was incumbent upon you to tell those
21 legislators that you were discussing, for example,
22 the privacy bill with your beliefs about the
23 harmful side effects of tobacco products?

24 A I think that it was a given. I mean, the people
25 that I talked to, the -- the primary sponsor of

1 the bill, Dick King, was a smoker. He knew -- he
2 knew the problems with it.

3 I never -- like I said, I isolated the
4 arguments strictly to the employee privacy deal.
5 I mean, I'm assuming that they knew that
6 cigarettes were harmful.

7 Q Did your client, the LMC, provide any information
8 to you concerning health hazards of smoking or the
9 use of tobacco products?

10 A I can't recall any specific thing right now.

11 Q Now, the first lawsuits against the industry were
12 filed in 1994, reimbursement lawsuits for
13 Medicaid.

14 Did you keep abreast of those lawsuits from
15 the '94 through '96 time frame?

16 A Not really.

17 Q Did you know what the lawsuits were about?

18 A Back then, no, not that I recall.

19 Q Did you ask your client or perhaps someone from
20 the Tobacco Institute what their response was to
21 the allegations of fraud, conspiracy, and the
22 like?

23 A No.

24 MR. MURRAY: Objection;
25 foundation.

1 THE WITNESS: Oh.
2 MR. MURRAY: Go ahead.
3 A No, not that I recall.
4 Q (By Mr. Leedom) Does your wife smoke?
5 A Yes.
6 Q How long has she smoked?
7 MR. MURRAY: Outside the scope,
8 but go ahead.
9 A Oh, we've been married eight years. I don't
10 really know.
11 Q (By Mr. Leedom) Did she smoke when you met her?
12 A At least eight years, you know, or nine years.
13 That's how long I've known her. She probably
14 picked it up in college.
15 Q You don't know, though?
16 A No.
17 Q Did you ever do any research or have any research
18 done on your behalf to determine the relationship
19 between the use of tobacco products and various
20 diseases, including lung cancer, heart disease,
21 emphysema?
22 A I don't recall doing any -- other than reading
23 some articles, you know, that type of thing.
24 Q Why didn't you do that?
25 A I don't know.

1 Q You're on retainer by the LMC, which is related to
2 the tobacco industry. You periodically advocate
3 positions for the tobacco industry, as we've
4 identified. Why didn't you feel it was necessary
5 to do research to find out the impact of these
6 products on people, on the state?

7 A I can't answer that. I don't know. I -- again, I
8 read stuff, but I -- I don't know.

9 Q I'm going to go over some of these documents in
10 just a minute that you've produced, but have you
11 attended any other meetings, beyond the ones you
12 told me about; for example, a meeting in some
13 other part of the country where lobbyists
14 representing the other chapters of the LMC meet to
15 discuss common issues?

16 A Yes.

17 Q How often have you done that?

18 A They generally have an annual meeting. They skip
19 a year once in a while, but there is generally a
20 management meeting of all the LMC people.

21 Q And do the meetings include an agenda and a
22 notebook with materials in them?

23 A They hand out stuff. You've got some of it. I
24 don't keep it all because -- in fact, I don't keep
25 ten percent of it, but I don't know if I turned

1 over an agenda or anything, because I don't --
2 again, I don't keep a lot of the stuff.

3 Q What -- what do you do with the information you
4 get?

5 A Oh, we discuss it. You know, they go -- they have
6 various topics that they start talking about, and
7 it's a lot of what's going on in the other states
8 on issues and that type of thing.

9 It's a -- it's very similar to other meetings
10 that I go to for other clients where we all get
11 together and just kind of see what's happening.

12 Q Did you, in researching your documents, provide us
13 everything that was responsive to our subpoena
14 that we issued?

15 A I gave -- actually, I gave Jim Murray everything I
16 could find in my office that had anything that I
17 thought related to TILMC. And I put in it a
18 bankers box and then I just turned it over to him
19 and said, you figure out -- because I read your
20 requirement for documents and I didn't feel
21 comfortable to decide which is relevant and which
22 is not. So you've got everything that I've got in
23 my office.

24 Q Okay. After being reviewed by Mr. Murray?

25 A Yeah. I turned everything over to him and then he

1 gave you whatever you got.

2 Q What did you do in preparation for your
3 deposition?

4 A What do you mean?

5 Q Well, did you meet with anybody to discuss your
6 deposition testimony today?

7 A I had a brief meeting with Mr. Murray.

8 Q Were there any other attorneys present that were
9 not with his office?

10 A What's his name? Yeah, there was another
11 attorney, but I can't remember his name right now.

12 Q Who did he represent?

13 A I'm not sure.

14 THE WITNESS: Was he with your
15 firm?

16 Q (By Mr. Leedom) Well, he doesn't have to answer
17 the questions.

18 A Oh, he can't answer, that's right.

19 Pat, that's his name. I can't remember his
20 last name.

21 Q Pat.

22 A Pat.

23 Q As far as you know, he was with Mr. Murray's firm,
24 or not?

25 A I don't know.

1 Q When did this meeting take place?
2 A Yesterday.
3 Q Is that the only time you've met with Mr. Murray
4 or anybody from his office, since you don't know
5 who Pat is?
6 A No. I have met -- we had coffee, what, a month
7 ago or two months ago when I first got notified
8 that I'd be deposed.
9 Q Just you and Mr. Murray?
10 A Pat was there, too.
11 MR. MURRAY: Joe, Pat Davies.
12 THE WITNESS: Pat Davies.
13 MR. LEEDOM: Is he with your
14 office?
15 MR. MURRAY: Covington Burling.
16 MR. LEEDOM: Oh, Covington.
17 Q (By Mr. Leedom) I'm not interested in asking you
18 questions about your discussions with Mr. Murray,
19 that's out of bounds, or -- were you represented
20 by Covington and Burling?
21 A I'm represented by Jim Murray.
22 Q Right. But at the time of these meetings, were
23 you represented by Covington and Burling in any
24 way?
25 A Not to my knowledge.

1 MR. MURRAY: By Pat Davies.

2 THE WITNESS: Pat Davies.

3 Q (By Mr. Leedom) Did Pat Davies represent you?

4 A You -- you got me kind of messed up here.

5 Q At the time of the meetings --

6 A Yeah.

7 Q -- was it your understanding that Pat Davies was
8 representing you as a lawyer?

9 A No, I'm thinking Jim Murray is representing me as
10 a lawyer, that Pat Davies is another lawyer that
11 sat in on the meeting, so...(Pause.)

12 MR. LEEDOM: Well, in view of
13 that, I don't know how those would be privileged.
14 I don't want to stray into areas that we'd have to
15 argue with the court, but --

16 MR. MURRAY: Well, a privilege
17 issue is pending. Mr. Daniels, I want to consult
18 with you.

19 Is that all right?

20 MR. LEEDOM: Yes, because I want
21 to make sure we don't, you know, violate any
22 attorney/client privileged situation. And so do
23 you want to chat with him for a moment?

24 MR. MURRAY: Yeah.

25 THE VIDEOGRAPHER: We're going

1 off the record at 12:17.

2 (Recess at 12:17 p.m.)

3
4 THE VIDEOGRAPHER: We are back
5 on the record at 12:18.

6
7
8 EXAMINATION (Continuing)

9 BY MR. LEEDOM:

10 Q All right. Let the record show that you just had
11 a meeting with Mr. Murray, and I'm going to ask
12 you some questions now and you'll have to help me
13 through this.

14 You had two meetings now that Mr. Davies was
15 in attendance at?

16 A Correct.

17 Q And one was about a month ago and one was
18 recently?

19 A Yeah, roughly a month, maybe a little bit longer.

20 Q And Mr. Davies works for Covington and Burling?

21 A Right.

22 Q And Mr. Davies is not your lawyer?

23 A Yes, he is, apparently.

24 Q Okay.

25 A I was confused because I thought we were talking

1 about this particular situation here that Jim
2 Murray is representing me at the deposition, but
3 both Covington and Burling and Jim Murray is
4 representing me.

5 And they told me that. I just got confused
6 when you started asking questions. And again, I
7 forgot the guy's name, even.

8 Q So just, again, tell me how it is that you believe
9 you're represented by Covington and Burling.

10 A Yes.

11 Q How is that?

12 A Well, he -- he told me that I -- that he was
13 representing me.

14 Q And have you ever been represented by Covington
15 and Burling prior to this issue?

16 A No.

17 Q And Covington and Burling is the attorneys for the
18 Tobacco Institute; you knew that?

19 A I believe so.

20 Q Covington is not the law firm for the LMC, is it?

21 A Not -- I don't think so.

22 MR. LEEDOM: Well, I think in
23 view of what he said, I'm not going to ask him
24 anything more about that at this point in time.

25 Q (By Mr. Leedom) Now, what I'd like to do is ask

1 you, in terms of the legislature in the period of
2 '90 through '96 -- again, keep you focused on
3 that -- which legislators did you feel were the
4 most receptive to arguments by the tobacco
5 industry on issues?

6 A To the industry or to me?

7 Q You particularly, on behalf of the LMC, and the
8 industry in general.

9 A So two-part question?

10 Q Yeah, I can break it down if you want, but go
11 ahead if you can.

12 A Yeah, Dick King, representative Dick King, who was
13 my prime sponsor on the privacy bill, oh, Senator
14 Frank Warnke, Senator Bill Smitherman -- these
15 are all former legislators. None of them are in
16 office now.

17 I'm trying to think. There weren't too many
18 sympathetic ones, let me be honest with you, to
19 the tobacco industry. I had probably more luck,
20 you know, with -- on the privacy issues than, you
21 know, the industry would have.

22 Oh, Marlon Applewick was a real advocate of
23 employee privacy. He is currently in the
24 legislature. Jeanette Hainer, Senator Hainer.
25 That's -- you know, I'm just thinking out loud

1 here.

2 Q To your knowledge, did the tobacco industry,
3 either through you or through other lobbyists,
4 provide monies to any of those individuals that
5 you've named?

6 A I don't know direct -- it's all public record. I
7 don't know directly if they did or not.

8 I --you know, as an LMC person, we didn't have
9 a pack or anything like that. The companies I
10 assume have packs and they contributed, but I
11 don't know firsthand if they contributed money to
12 those people.

13 Q What about Ray Shou?

14 A Skow?

15 Q Skow, sorry.

16 A This is post-1996, because he -- he just got in.

17 Q Okay. How about Barbara Lisk?

18 A She was elected in '92. I don't recall dealing
19 with her during that time period. She's majority
20 leader now and I deal with her, but -- she was in
21 the minority back then, so we didn't talk to them.

22 Q What about those legislators in this time frame
23 that were considered unfriendly to the tobacco
24 interests? I know there is a number of them, but
25 the primary ones that would be considered the

1 opponents of the tobacco position on issues.

2 A The -- I think probably the most vocal opponent
3 was Georgette Valle, Representative Valle;
4 Representative Oke, or Senator Oke, O-K-E, Senator
5 Kreidler.

6 Those are just names that pop out. I --
7 there is probably more.

8 Q When you attended these meetings, either the
9 national meetings you referred to or the local
10 meetings, did you get any training on how to
11 advocate positions of the tobacco industry?

12 A Define what you mean as "training."

13 Q Well, presentations where people would talk about
14 how to approach a legislator with respect to a
15 particular issue and how to advocate a position,
16 what terms, what words to use, what documents to
17 utilize to convince the person of your position.

18 A No, not -- not like that. I mean, I think
19 everybody assumes you already knew how to do that.

20 Q Well, anything else?

21 A We'd get information, you know; like I say, some
22 of the stuff you've got.

23 Q Did you coordinate your strategy on tobacco issues
24 with the other lobbyists: Bentler, Fritz,
25 Ducharme, Halsan?

1 A Post 19 -- or pre-1996, Ducharme, of course,
2 wasn't there, and I don't know when T.K. came on
3 board. But if it was an issue like privacy -- and
4 they generally -- they didn't give me too much
5 help on that, is my recollection, but on some
6 issues that I was involved with, I'd talk to them
7 about it. On -- probably 70 percent of what was
8 discussed at the -- at the meetings during session
9 and everything, I didn't have anything to do with,
10 and so I didn't talk to them that much.

11 Q On the issue of taxation, for example, did you get
12 together with the other lobbyists and try to
13 develop a position for the industry that could be
14 consistently represented to legislators?

15 A No.

16 Q What is the position of the LMC with respect to
17 the hazards or risks of smoking?

18 A I don't think they have a position.

19 Q What's the position with respect to the youth
20 access to tobacco products?

21 A Their position is that youth -- young people
22 should not smoke and there shouldn't be any
23 targeting or anything like that. I mean, they are
24 very consistent on that.

25 Q Is that a position that is a written position?

1 A I think I've seen something in writing on it and I
2 think there might be something in the file. I
3 don't know.

4 I know that I've been verbally told never to
5 interfere with the youth access bill and not to
6 get involved with that.

7 Q What does that mean, don't get involved?

8 A Not support, you know, defeating a bill or get
9 involved in it.

10 Q Have you ever supported a youth access bill?

11 A Post-1996, yes. I've got my picture taken in the
12 last session when they passed it, but that was not
13 for LMC. That was for the United Food and
14 Commercial Workers. They represent grocery clerks
15 and people in stores and we supported and --

16 MR. MURRAY: Wait, Mr. Daniels,
17 let's --

18 THE WITNESS: Okay, that's
19 enough.

20 Q (By Mr. Leedom) Yeah, I think you're beyond the
21 '96 time frame.

22 A Yeah.

23 Q Have you seen any documents which indicate that
24 various tobacco companies, in fact, did target
25 youth to smoke or take up smoking?

1 A I don't recall seeing any documents. I probably
2 have read newspaper reports or seen television
3 that speculated that or talked about it.

4 Q What did you see?

5 MR. MURRAY: I object if it's
6 beyond 1996.

7 THE WITNESS: Oh.

8 A I don't recall anything before 1996. I'm speaking
9 recently.

10 Q (By Mr. Leedom) Of course, you knew that a lot of
11 the documents that have been in the newspapers in
12 the last several years were ones that were
13 produced in the context of these lawsuits around
14 the country?

15 MR. MURRAY: Objection;
16 foundation.

17 Q (By Mr. Leedom) Right?

18 A I guess.

19 Q I'm trying to find out if, before '96, the
20 companies provided you with any documents which
21 indicate that the companies were targeting
22 children, 8-year-olds, 12-year-olds, 14-year-olds.
23 Did you see anything like that?

24 A Oh, no. No.

25 Q Did anybody from a company tell you that that was,

1 in fact, within their documents?

2 A No.

3 Q Prior to 1996, did you believe that the tobacco
4 companies in fact did attempt to get people under
5 the age of 18 to utilize their products?

6 MR. MURRAY: Objection; asked
7 and answered already, it's beyond the scope, and I
8 object to foundation.

9 A I don't know. Personally, I -- I didn't think so.
10 I don't know, you know. I never thought about it
11 that much.

12 Q (By Mr. Leedom) What did you think the purpose
13 was of the advertising that the tobacco companies
14 did do prior to 1996?

15 A I would assume to make people buy cigarettes, or
16 their brand.

17 Q And would those people include people under the
18 age of 18?

19 MR. MURRAY: Objection to form,
20 asked and answered, foundation.

21 A Again, I -- I have never seen any proof or
22 statements or heard anybody from the tobacco
23 industry or from other lobbyists saying that they
24 deliberately target kids. I mean, I've never
25 heard that, never seen anything on that. Whether

1 Joe Camel was designed to attract kids, I don't
2 know.

3 Q (By Mr. Leedom) I was going to ask you about
4 that.

5 What do you think -- again, prior to 1996,
6 what was the purpose of the Joe Camel marketing
7 program?

8 MR. MURRAY: Objection to
9 foundation, beyond the scope.

10 Go ahead.

11 A I would assume, like I say, to sell cigarettes.

12 Q (By Mr. Leedom) To who, though?

13 MR. MURRAY: Same objection.

14 A To the consumer.

15 Q (By Mr. Leedom) Would that include people under
16 the age of 18?

17 MR. MURRAY: Same objection.

18 A I -- I don't know. I mean --

19 Q (By Mr. Leedom) Have you seen any documents,
20 prior to June of '96, which indicate that the RJR
21 program relating to Joe Camel was, in fact,
22 designed to develop smoking among people under the
23 age of 18?

24 MR. MURRAY: Objection to
25 foundation and asked and answered, in essence.

1 Go ahead.

2 A No.

3 Q (By Mr. Leedom) You have told me that after 1996,
4 you were told not to oppose bills preventing youth
5 access. I'm not going to ask you any more about
6 that.

7 Prior to 1996, were you told anything with
8 respect to bills relating to youth access, what
9 position to take?

10 A Not that I recall.

11 Q Were there bills that you can recall, prior to
12 June of 1996, which dealt with youth access and/or
13 penalties for those who sold tobacco products to
14 those under the age of 18?

15 A I don't recall any specific bill. I know that
16 there was maybe in effect at that time the
17 monetary penalties for clerks that sell alcohol to
18 minors and tobacco. I don't know when it actually
19 came into effect.

20 Q What position did the tobacco industry take with
21 respect to penalties on clerks in stores who, in
22 fact, sold tobacco products to those under the age
23 of 18?

24 MR. MURRAY: Object to form.

25 A I don't recall them taking a position, to be

1 honest with you.

2 Q (By Mr. Leedom) Would it surprise you that they
3 opposed bills imposing penalties on owners of
4 stores for selling to minors?

5 A It wouldn't surprise me.

6 Q What about the position of your client, the LMC,
7 with respect to vending machines?

8 A They didn't have a position on vending machines.

9 Q Do you have a position yourself with respect to
10 vending machines?

11 A I -- what do you mean?

12 Q Well, do you think that --

13 A Do I like them?

14 Q Do you think there ought to be vending machines
15 out there vending cigarettes?

16 MR. MURRAY: Objection; beyond
17 the scope.

18 Go ahead.

19 A I -- you know, you've got penalties for possession
20 of tobacco now for 18 years and under. I can see
21 that, probably from a policy standpoint, you
22 should have some form of security where kids
23 couldn't get to a vending machine.

24 I mean, that's just my personal opinion. And
25 I think more of a liability of the owner of the

1 machine.

2 Q (By Mr. Leedom) Did you ever work on that issue?

3 A No.

4 Q What about sampling, giving away free samples of
5 cigarettes --

6 A No.

7 Q -- to people?

8 A No.

9 Q Didn't work on that issue?

10 MR. LEEDOM: How many minutes do
11 we have on the tape?

12 Okay, let's switch tapes now and I'll go to
13 the documents.

14 THE VIDEOGRAPHER: We're going
15 off the record at 12:35. This is the end of Tape
16 1.

17 (Discussion off the record.)

18
19 THE VIDEOGRAPHER: This is the
20 beginning of Tape 2. We are back on the record at
21 12:40.

22 ////

23 ////

24 ////

25 ////

1 A Yeah, it was probably at a public hearing.

2 Q (By Mr. Leedom) And you just picked it up at the

3 hearing and put it in your files?

4 A Yeah.

5 Q Now, Tobacco-Free Washington is what?

6 A It's a coalition, I think, of health

7 organizations; health districts or people that

8 want to result in tobacco-free Washington.

9 Q Is it safe to say that they are often at odds with

10 the tobacco industry with respect to issues?

11 A Oh, yeah. Yeah.

12 Q Do you read the materials you get from

13 Tobacco-Free Washington?

14 A I've read some. I can't recall if I've read

15 everything there. I think -- like I said, I

16 picked it up at a hearing, and I was kind of

17 surprised it was still in my files. I usually

18 throw away a lot of stuff after session.

19 Q Governor Lowrey, in the forward to this document,

20 Page 1288, says that tobacco kills nearly 22

21 Washington residents each day, and he goes on to

22 cite the cost of \$1 billion a year in lost

23 productivity and direct and indirect health care

24 costs.

25 I'll show you where I was referring to there.

1 A Okay.

2 Q Now, have you ever been provided with any
3 information from your client or from the tobacco
4 industry that's contrary to that information?

5 MR. MURRAY: Objection to form.

6 A Not that I can recall.

7 Q (By Mr. Leedom) Did you ever check out those
8 figures to verify them?

9 A No.

10 Q Do you think they're accurate?

11 MR. MURRAY: Objection to form.

12 A I have no idea.

13 Q (By Mr. Leedom) So you don't know whether they're
14 accurate?

15 A No.

16 Q But you didn't go and check to see if they are
17 accurate or inaccurate --

18 A No.

19 Q -- after receiving the document?

20 A No.

21 Q Did you ever talk to any legislator about what
22 Governor Lowery said in 1993, that 22
23 Washingtonians die every day from tobacco products
24 and that it costs about a billion dollars a year
25 for our state in direct and indirect costs?

1 MR. MURRAY: Objection to form.

2 A Not that I can recall.

3 Q (By Mr. Leedom) On Page 1294 of the document,
4 there is a section entitled "Children," and it
5 shows the percent of children who smoke in public
6 schools. And it goes from sixth grade up through
7 twelfth grade, from 2 percent up to 26.1 percent.

8 Do you see those figures?

9 A Uh-huh. (Witness answers positively.)

10 Q Have you ever verified those figures?

11 A No.

12 Q Do you have any information which leads you to
13 conclude that those figures are not accurate?

14 A No.

15 Q Have you ever discussed those figures with any
16 legislator?

17 A Not that I can recall.

18 Q On Page 1297, there is a reference to, quote,
19 "paying the piper," end quote. And it talks about
20 in 1990, the direct medical costs associated with
21 tobacco use was 437.4 million dollars in our
22 state, which is over 1 million dollars a day. Let
23 me just show you that.

24 Were you ever provided with any information
25 from the tobacco industry which contradicted that

1 information?

2 A No.

3 MR. MURRAY: Objection to form.

4 A No.

5 Q (By Mr. Leedom) Did you ever discuss the actual
6 health care costs to the state of Washington with
7 legislators in the context of advocating the
8 position of the tobacco industry on the issues
9 that you were advocating, that we discussed?

10 MR. MURRAY: Objection to form.

11 A No, but in terms of the privacy issue, when the
12 cost of insurance and that type of thing came up,
13 you know, that's why we went to two-tier deal,
14 because it would provide for smokers to pay an
15 extra premium, that type of thing. So under that
16 context is the only -- only way that I have
17 discussed that.

18 Q (By Mr. Leedom) On Page 1303, there is a question
19 raised of: "What more can be done?" And under
20 the issues, it says one of the things that can be
21 done is to increase the excise taxes on tobacco
22 products.

23 A Uh-huh. (Witness answers positively.)

24 Q Because -- just read that sentence there. What
25 does it say will happen if you increase excise

1 taxes?

2 MR. MURRAY: Objection to form.

3 A Go ahead and read?

4 Q (By Mr. Leedom) Yes.

5 A Yeah. "Increasing the tobacco excise tax has
6 proven to be one of the most effective ways to
7 reduce tobacco consumption." And then the
8 remainder or just --

9 Q You can read the next sentence.

10 A "This is particularly true for young people whose
11 tobacco buying habits are more sensitive to price
12 changes," period.

13 Q So that says if you raise the prices, you're going
14 to reduce consumption, and particularly you're
15 going to reduce consumption among those under the
16 age of 18 because cost is a big item for them?

17 A Uh-huh. (Witness answers positively.)

18 MR. MURRAY: Objection to form.

19 Q (By Mr. Leedom) Do you agree with that?

20 A No, personally. I mean, that -- I think that was
21 written in 1993, and the percentages that you have
22 in 1993, youth -- youth smoking, my understanding,
23 has increased since that time, and you've had
24 dramatic increases in the price of cigarettes.

25 I -- I don't think that, you know, it's proven

1 that if you raise the price, it's going to reduce
2 consumption.

3 Q Well, of course, we don't know what would have
4 happened, in terms of consumption, if the price
5 hadn't been raised, right?

6 A True. True.

7 Q So why do you think the consumption by those under
8 the age of 18 has, in fact, increased since 1993,
9 despite an increase in the price?

10 MR. MURRAY: Objection to form.

11 A Personally? I think it's kids. Again, I think
12 you -- you have -- you know, the more you tell a
13 kid that it's bad, the more desire there is to try
14 it. And so -- I mean, with all the emphasis on
15 eradicating tobacco use with youth, they're going
16 out there and snubbing your noses at you.

17 I mean, that's just my personal belief. I
18 wasn't told to lobby that or -- that's what I feel
19 personally.

20 Q (By Mr. Leedom) And finally, on this document,
21 Page 1289 talks about the tobacco problem. And it
22 says here, on Paragraph 2, "Ask most adults if
23 they would like to quit smoking or using smokeless
24 tobacco and they will say yes, often emphatically,
25 but they are unable to quit," end quote.

1 Do you agree with that?

2 MR. MURRAY: Objection to form.

3 A I think in some cases, yeah. I think there is
4 people that can't quit that want to quit.

5 Q (By Mr. Leedom) Why do you suppose that is?

6 A I think nicotine is addictive.

7 Q Did you see those articles in your files which
8 talk about a genetic component to addiction?
9 They're the New England Journal of Medicine
10 articles that were in there?

11 MR. MURRAY: Objection to form.

12 Go ahead.

13 A I recall the documents. I can't remember
14 specifically all the information on it. It was
15 something about 1992 out of the New England
16 Journal of Medicine. I remember the documents.

17 Q (By Mr. Leedom) Do you know how you got those
18 documents?

19 A No, I don't.

20 Q Have you ever been provided with any information
21 from the tobacco companies which indicates to you,
22 as a lobbyist for the tobacco industry, what it is
23 that makes tobacco products addictive?

24 MR. MURRAY: Objection to form.

25 A No, I can't recall.

1 Q (By Mr. Leedom) Have you ever had a presentation
2 made whereby the components of a cigarette are
3 explained to you?

4 A Not that I can recall.

5 Q Here's a document 1425. It's a publication by
6 Citizens for Tax Justice.

7 Do you see that?

8 A Uh-huh. (Witness answers positively.)

9 Q It's talking about sales taxes in there.

10 Is it your testimony that the Citizens for Tax
11 Justice is not affiliated with the tobacco
12 industry?

13 A I have no knowledge of them being affiliated with
14 them.

15 Q Do you suspect that they probably are?

16 A Personally, I don't think so. I mean, they're --
17 they've been an independent organization for many
18 years.

19 Q Okay. Then Page 1528 discusses a program called
20 "It's the law. We do not sell tobacco products to
21 persons under 18."

22 Do you remember that program?

23 A Yeah. Yeah.

24 Q Then it says here on Page 1528, the objectives of
25 the program, quote: "To continue to discourage

1 those who are underage from purchasing tobacco
2 products and to reaffirm that the tobacco industry
3 does not want young people to use tobacco products
4 and continues to take affirmative steps to
5 reinforce this position," end quote.

6 Do you see that?

7 A Yeah.

8 Q Do you believe that is, in this time frame we're
9 talking about, was the position of the tobacco
10 companies?

11 MR. MURRAY: Objection to form.

12 A I don't have any knowledge if that was or not.

13 Q (By Mr. Leedom) Do you believe, in fact, that the
14 tobacco companies are not being truthful with that
15 representation on that document, which is
16 prepared --

17 A I --

18 MR. MURRAY: Wait, wait. He is
19 not done with his question yet.

20 A Okay. Say it again now.

21 Q (By Mr. Leedom) Do you believe that, in fact,
22 the tobacco companies were not being truthful in
23 making those representations of objectives on Page
24 1528 that we read?

25 MR. MURRAY: Object to form.

1 A I don't know.

2 Q (By Mr. Leedom) You don't know whether they're
3 being truthful or not?

4 MR. MURRAY: Same objection.

5 A I don't remember what this is.

6 I don't know. This document, I think I got
7 this -- it was given to this -- this document was
8 given to me by one of the industry lobbyists,
9 because of -- this is not LMC stuff. This was
10 because of UFCW and representing clerks at grocery
11 stores and the like. I don't -- I don't even
12 recall reading this.

13 I remember -- it had a blue cover. I put it
14 in there because -- I think it was in my UFCW file
15 and I just put it in there because it had to do
16 with tobacco.

17 Q (By Mr. Leedom) I'm not sure you answered my
18 question, though.

19 A Okay.

20 Q Do you think that these representations made by
21 the tobacco industry are, in fact, truthful
22 representations that they're trying to discourage
23 those under 18 from smoking and that they do not
24 really want young people to use tobacco products?

25 MR. MURRAY: Objection to form

1 and beyond the scope.

2 A Well, I think they've had an aggressive program.

3 I mean, you're asking me to tell me what their
4 motivations are. You know, I don't know, but I
5 know that they have promoted this -- this carding
6 program for quite a few years.

7 Q (By Mr. Leedom) Okay. Then there is another
8 document dated February 1, 1995, entitled "Minors'
9 Access to Tobacco, Report to the Legislature by
10 the Washington State Department of Health." And I
11 would like to ask you just a couple questions
12 about that.

13 On Page 1681, there is a statement that,
14 "According to the US Surgeon General, smoking is
15 the single most important preventable cause of
16 death. Smoking is a major contributor to death
17 and disease from coronary artery disease,
18 cerebrovascular disease, lung and other cancers,
19 and chronic obstructive pulmonary disease. Over
20 90 percent of all lung cancer deaths and over 80
21 percent of chronic obstructive pulmonary disease
22 is attributable to tobacco. In Washington, in
23 1990, an estimated 7,993 deaths were attributable
24 to all uses of tobacco, totalling approximately
25 \$845,000,000 in direct medical and indirect lost

1 productivity costs," end quote.

2 First of all, did I read that correctly?

3 A Yeah.

4 Q Do you agree with that statement?

5 MR. MURRAY: Objection to form.

6 A I don't have any reason not to agree with it. I
7 don't know the -- you know, how they added or how
8 they calculated that or anything like that.

9 Q (By Mr. Leedom) Have you ever done any research
10 or been provided with any information by the
11 tobacco industry contrary to those assertions in
12 that paragraph that I read?

13 A No.

14 MR. MURRAY: Objection to form.

15 THE WITNESS: Oh.

16 A No.

17 Q (By Mr. Leedom) Did you ever talk to any
18 legislators about the information set forth there,
19 about the impact of smoking on health in the state
20 of Washington and nationally?

21 MR. MURRAY: Asked and answered.

22 Go ahead.

23 A Not that I can recall.

24 Q (By Mr. Leedom) Okay. Now, on Page 1682, there
25 is a reference to the 1993 Washington legislature

1 passed ESHB 2071 called Minors' Access to Tobacco
2 Act.

3 A Uh-huh. (Witness answers positively.)

4 Q I think you'll see in this particular document,
5 the law, Chapter 70.155 is attached, as well as
6 the WAC regulations 314-10.

7 Okay. I'd like to know whether or not, first
8 of all, you personally, on behalf of your tobacco
9 client, took any position with respect to that
10 bill in 1993?

11 A Not for LMC, not for my tobacco client.

12 Q Okay. Did you take a position for any other
13 client?

14 A Can I read the bill?

15 Q Sure.

16 A I don't recall UFCW --

17 Q It's tabbed right there.

18 A Okay. I've got to refresh myself here.

19 I can't recall specifically if I did or not.
20 If it was -- if I did anything on this bill, it
21 was probably very minor and it was, like I said,
22 on behalf of the United Food and Commercial
23 Workers.

24 I probably monitored this because of the
25 penalties and the impact that it would have on

1 clerks.

2 Let's see. I -- I don't recall actually
3 working on this bill directly.

4 Q Okay.

5 A I know I didn't do it for LMC, but I could have
6 been -- you might find my name on a testimony
7 sheet, for instance, for UFCW on this, but I don't
8 recall right off the bat.

9 Q My next question, though, is: Do you know what
10 the position of the tobacco industry was with
11 respect to this statute in 1993, that ultimately
12 became law?

13 A Yeah, not really. That's something, again, that I
14 had never got involved.

15 Q Would it surprise you to learn that, in fact, the
16 representatives of the various tobacco companies
17 opposed ESHB 2071, both in the house and the
18 senate?

19 A No.

20 Q Why wouldn't that surprise you?

21 A I think it's a -- you know, a bill and -- I think
22 there was some issues with sampling, I think there
23 was some issues on funding that they were opposed
24 to, if I recall.

25 Q There were issues with fining clerks for violating

1 the law, that they were opposed to?

2 A Well, I was unaware of that if they were.

3 Q I mean, you went to a lot of meetings during this
4 time frame with the various tobacco lobbyists, and
5 I want to find out whether or not you recall that
6 they discussed their opposition to what later
7 became RCW 70.155, which restricted access of
8 tobacco products to minors.

9 A The best of my memory, I think they had concerns
10 with the funding. There was some funding aspects
11 to that. I don't recall any -- anything with the
12 penalties or anything.

13 Q What do you mean "funding issues"?

14 A Let me see the bill again.

15 Q Here.

16 A Maybe this is not the bill I'm thinking of here.
17 There was some issue dealing with funding
18 going to the health department for enforcement as
19 opposed to going to the Liquor Control Board. And
20 I don't know if it was this bill, but I do recall
21 them having concerns about transferring of monies
22 and where that money shall go to.

23 Q Right. Was it that --

24 A It might be another bill, you know.

25 Q Isn't that another example, Mr. Daniels, of a

1 tactic utilized by the tobacco companies, whereby
2 they make an issue out of something, such as where
3 the funding is going to go to or where it's coming
4 from, in order to defeat a bill when, in fact,
5 their real goal is to defeat the bill itself?

6 MR. MURRAY: Objection to form.

7 A I don't know that that's their objective on that.

8 My recollection is that they felt since the
9 liquor board had the primary statutory authority
10 to do the tobacco enforcement, that enforcement
11 should be centralized within the liquor board.
12 You'd have to ask them what their --

13 Q (By Mr. Leedom) All right. What they did,
14 though, is they opposed the entire bill on the
15 basis of this enforcement argument, didn't they?

16 A I don't know.

17 Q Oh, okay.

18 All right. Mr. Bill Fritz, how well do you
19 know Mr. Fritz?

20 A I know Bill pretty well. I've known him for a
21 long time.

22 Q And he has been the lobbyist for the Tobacco
23 Institute for many years?

24 A Up until the last couple of years.

25 Q And we haven't taken Mr. Fritz's deposition yet,

1 but did you work pretty closely with him?
2 A I've worked with Bill, against Bill. I mean, he
3 is a lobbyist and we've been -- been down there a
4 long time, so...(Pause.)
5 Q But he was one of the attendees at meetings you
6 would go to to discuss tobacco-related issues?
7 A Oh, yeah. Yeah, he was the lobbyist for the
8 Tobacco Institute.
9 Q There is another document in your records,
10 No. 1950, dealing with federal legislation,
11 entitled "Summary of Youth Smoking Prevention
12 Act of 1995." And that's in your records.
13 Do you know where you got that?
14 A No. I saw this when I was digging through, and
15 it's -- let me take a little bit...(Pause.)
16 No, I don't recall where I got this.
17 Q Okay.
18 A This is a federal --
19 MR. MURRAY: There is no
20 question yet.
21 Q (By Mr. Leedom) You don't recall where you got
22 it?
23 A No.
24 Q This next document is No. 2095. It's a letter to
25 T.K. Bentler from a law firm in Atlanta, Georgia,

1 Consagy, Brooks, and Smith. And it deals with the
2 proposed regulation by the Department of Labor &
3 Industries concerning smoking in the workplace.

4 Can you tell me how you got that?

5 A I think T.K. gave it to me. Is this the one on --
6 let me see.

7 I don't recall how I got it. I'm assuming I
8 got it from Mr. Bentler, but I -- I don't remember
9 reading it much, to be honest with you.

10 Q And then attached to that is a brief submitted by
11 the Philip Morris Company, opposing the Department
12 of Labor & Industries standards on environmental
13 tobacco smoke in the office work environment.

14 A Yeah, I -- I don't know where I got this, but I --
15 again, it's part of a whole stack of stuff that
16 was in a box and I turned it over to you.

17 Q But does that refresh your memory that the tobacco
18 industry, and particularly led by Philip Morris,
19 vigorously opposed the Department of Labor &
20 Industries' standards on environmental tobacco
21 smoke in the office environment?

22 MR. MURRAY: Objection to form.

23 A Again, I don't even think I read this at the time.
24 I don't know why I still have it.

25 I knew they were opposed to the L&I rule. I

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1 mean, that was...(Pause.)

2 Q (By Mr. Leedom) The tobacco industry was opposed
3 to the L&I rule?

4 A That's my understanding, yeah.

5 Q And in fact, they vigorously opposed it by
6 submitting briefs to the department, did they not?

7 A I assume they did.

8 Q And then not only that, the tobacco industry then
9 sued the department in state court in Thurston
10 County, did they not?

11 A Well, that's what you told me today, so...(Pause.)

12 Q Did you know that?

13 A I didn't know that they had a suit going on. I
14 can't recall that.

15 Q Do you know what the Committee of Counsel is?

16 A Let me look at the document.

17 MR. LEEDOM: What's the number
18 of the document you told me?

19 MR. MURRAY: Counsel, as I told
20 you off the record, 2162 to 64 was inadvertently
21 produced. It should have been in our privilege
22 log. We request it back, cite you the authority
23 we have.

24 MR. LEEDOM: I read it already.
25 It's just that -- I'll show it to you. Have you

1 seen it?

2 MR. MURRAY: I have seen it.

3 MR. LEEDOM: So I'll make a
4 note. Okay, I won't ask him about it.

5 Q (By Mr. Leedom) Now, I'm not going to ask you
6 about that document at this point because they've
7 asserted a privilege to that.

8 Then we have the articles 2216 and Page 2219
9 are the New England Journal articles. Do you know
10 how you got those?

11 A I think one of them I copied myself in the state
12 library, because I was told about the article.

13 I can't recall. I mean, I think one of
14 them -- I remember going to the state library and
15 looking this thing up.

16 Q Why did you do that?

17 A Personal. I heard about this study and I wanted
18 to read it. Both my parents smoked.

19 Q Did they -- are they alive?

20 A No.

21 Q What did they die of?

22 A My dad died in a car accident and my mother died
23 of a blood disorder.

24 Q So neither one died of a smoking-related
25 illness --

1 A No.

2 Q -- as far as you know?

3 A No.

4 Q So you went, you think, yourself to the library to
5 find out about tobacco addiction?

6 A About the genetic aspect, if I recall.

7 I mean this is, like I say, something that
8 I -- I picked everything that I had in my desk and
9 my office that dealt with tobacco. That document
10 I don't think I ever circulated or talked to
11 legislators about. That's more of a personal
12 document that I had.

13 Q Well, that was my next question: Did you ever
14 tell any legislator that you felt that, as is your
15 belief, that tobacco products are addictive, for
16 whatever reason, genetic or otherwise?

17 A I don't recall stating that. You know, I'm sure I
18 did, probably. I mean, if they asked me a
19 question did I think tobacco is addictive, I
20 probably would have said "yes," because that's
21 what I personally believe, but I don't recall any
22 specific incidents or anything like that.

23 Q Did you believe, in this pre-'96 time frame, that
24 people that are addicted to various products, they
25 don't really have a choice as to whether or not to

1 use them?

2 A State that again.

3 Q Did you believe, prior to June of 1996, that

4 people that are addicted to products, such as

5 tobacco products, really don't have a choice as

6 to whether or not to use them because they're

7 addicted to the products?

8 A Well, I think every individual has an option that

9 they could go through. And one of the main

10 reasons why we -- on the workplace smoking

11 policies is that we would like to have cessation

12 classes paid for by the employer for people who

13 want to quit, and I think it's a choice.

14 Q It's a choice to enter into a program, is what

15 you're saying?

16 A If a person is addicted, cannot stop, then they

17 have the option to get into programs that can help

18 them do that, or medication that's coming out.

19 Q In your research on the issue of addiction, have

20 you come across any information as to how many

21 times the average smoker tries to actually quit

22 smoking but is unable to do so?

23 A Yeah, I'm not -- I haven't seen anything like

24 that.

25 Q You mentioned earlier a study called "Nickels and

1 Dimes" by the Citizens for Tax Justice. Now, who
2 provided this to you --

3 A LMC.

4 Q -- Page 2794?

5 A The LMC.

6 Q And basically this is a document that opposes the
7 additional sales and excise taxes on products such
8 as tobacco products, correct?

9 A Yeah. It's a progressive tax group that wants to
10 have a progressive tax structure in all states.
11 And by their nature, consumption and excise taxes
12 do tend to penalize certain segments of the
13 population over others.

14 Q One more in this box.

15 In 1990, there was a document published by the
16 Washington State Department of Health, document
17 3080, entitled "Tobacco and Health in Washington
18 State." And it discusses a number of issues, some
19 of which I've already asked you about.

20 Let me show you this Page 3089, dealing with a
21 national picture and the report of the Surgeon
22 General. It indicates here that smoking is the
23 single most important preventable cause of death
24 in our society.

25 Is that something that you agreed with prior

1 to June of '96?

2 MR. MURRAY: Objection to form.

3 A I can't say if I agreed or not agreed. I didn't
4 think about that.

5 Q (By Mr. Leedom) Is there any other preventable
6 cause of death that is more important than
7 smoking, that you're aware of?

8 MR. MURRAY: Objection to form.

9 A No.

10 Q (By Mr. Leedom) Then it says that smoking caused
11 an estimated 390,000 deaths in the United States
12 in 1985, or one out of every six. Quote: "This
13 is more deaths than those caused by cocaine,
14 heroin, alcohol, homicide, suicide, fire, traffic
15 accidents, and AIDS combined," end quote.

16 Do you believe that to be an accurate
17 statement?

18 MR. MURRAY: Objection to form.

19 A I'm assuming it's accurate or they wouldn't put it
20 in a Surgeon General report.

21 Q (By Mr. Leedom) Do you have any information to
22 suggest that that is not an accurate statement?

23 A No.

24 Q Were you ever provided, by your client, the Labor
25 Management Committee, or any tobacco company or

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1 industry representative, information which would
2 be contrary to that assertion of smoking causing
3 an estimated 390,000 deaths in the United States
4 in 1985?

5 A Not that I can recall.

6 Q Did you ask for any such information?

7 MR. MURRAY: Objection to form.

8 A Not that I can recall.

9 Q (By Mr. Leedom) Did you bring that information to
10 the attention of any legislator?

11 MR. MURRAY: Objection --

12 Q (By Mr. Leedom) -- in the context of these issues
13 that you were discussing with them?

14 MR. MURRAY: Objection to form.

15 A Not that I recall. They had this information.
16 This is -- I got this at a public hearing, too.

17 Q (By Mr. Leedom) Well, you say they had that --

18 A The legislators.

19 Q Well, how did you --

20 A This is a report to the legislators.

21 Q But do you know which specific legislators
22 actually had this information in hand?

23 A Everyone.

24 Q How do you know that?

25 A Because when they send out -- when the Department

1 of Health sends out a report, they'll send it to
2 all 447.

3 I mean, I'm assuming that's what they did.
4 They don't just give it to select members of the
5 legislature. This is a report by the Department
6 of Health and it was at a meeting when I picked it
7 up and the committee gets it and every member gets
8 it.

9 Q There is a reference here to smokeless tobacco on
10 Page 3090, indicating, quote, "Smokeless tobacco
11 is a cause of oral cancer," end quote.

12 Is that your personal belief?

13 MR. MURRAY: Objection to form.

14 A I haven't really thought about that. I've been
15 told that it is, you know.

16 Q (By Mr. Leedom) Do you have any information to
17 counter that?

18 A No.

19 Q Were you provided any information to counter that
20 by any tobacco company or anybody you represented
21 in the industry?

22 A No.

23 Q You have a subfile dealing with cigars?

24 A Yes.

25 Q How did you get involved with representation of

1 the cigar industry?

2 MR. MURRAY: What time frame is
3 that?

4 A This is really recent.

5 Q (By Mr. Leedom) Is that recent?

6 A Yeah, 1997, 1998. I think you asked the question
7 of other --

8 Q I did.

9 Well, I guess my question is: How did you get
10 these documents into your file which relate to
11 earlier time frames concerning cigar usage?

12 A Can I look at it?

13 The Tobacco Products Tax is a 1995 Department
14 of Revenue report, or it's actually a 1996
15 reporting on the year 1995, I believe. This is a
16 bill that was introduced in 1997, Web site updated
17 11/30/96. I've got all this myself.

18 Q Where did you get it?

19 A Off the Internet.

20 Q Okay. So does that deal with any position you
21 took prior to June of '96 on the taxation --

22 A No.

23 Q -- of cigarette products or tobacco products?

24 A No.

25 Q Okay, that's fine.

1 MR. LEEDOM: Let's take about a
2 five-minute break and then I think I've got maybe
3 15 or 20 minutes left.

4 THE VIDEOGRAPHER: We're going
5 off the record at 1:19.

6 (Recess at 1:19 p.m.)
7

8 THE VIDEOGRAPHER: We're back on
9 the record at 1:30.
10

11
12 EXAMINATION (Continuing)

13 BY LEEDOM:

14 Q Mr. Fritz -- excuse me, not Mr. Fritz.

15 Mr. Daniels, I notice in your records, there
16 are a number of issues of what's called "The
17 Smoker's Advocate, a service of Philip Morris
18 USA."

19 Who provides these to you?

20 A My recollection on that is my wife filled out some
21 form. She got it mailed to her, and then I put my
22 name on there and got copies. I'm assuming Philip
23 Morris sends it out.

24 Q Now, one of the things on document Page 131 of the
25 smoker's advocate talks about, "Time is running

1 out to oppose federal smoking restrictions." This
2 is an OSHA-related issue.

3 Did you, on behalf of your client, take any
4 position with respect to the OSHA smoking
5 restrictions?

6 A I think my activity on this was not legislatively.
7 I think it was to get other unions to support
8 BCMT's position on it.

9 Q And what was that position?

10 A They were opposed to it.

11 Q So they opposed regulations which would have
12 limited smoking in the workplace?

13 A Let me read this.

14 Yeah, and I think it goes back to that central
15 issue that we talked about earlier with respect to
16 collective bargaining rights, that smoking
17 policies should be between employers and employees
18 and their representatives.

19 Q Now, we've been here for several hours today and
20 you've been working in this field since 1990. Do
21 you notice that there is a consistent pattern that
22 every single proposal to limit smoking, be it in
23 the workplace, be it in office buildings, be it
24 anywhere, that the tobacco companies always oppose
25 it?

1 MR. MURRAY: Objection to form.
2 Q (By Mr. Leedom) Have you noticed that?
3 MR. MURRAY: Same objection.
4 A I hadn't thought about it.
5 Q (By Mr. Leedom) Well, think about it for just a
6 second as we're sitting here today.
7 Isn't it true that the tobacco companies have
8 opposed every single measure or effort by every
9 federal, state, or local authority to limit
10 smoking?
11 MR. MURRAY: Objection to form
12 and foundation.
13 A I think everything we've talked about, that's
14 true. You know, that's a very exclusive
15 statement. I don't know if it's true in all
16 cases.
17 Q (By Mr. Leedom) Can you think of any time
18 where the tobacco companies have supported any
19 limitation on the use of their products in any
20 situation?
21 A Post-'96 or --
22 Q Up through June of '96.
23 A I can't recall of anything.
24 Q One of the defenses by the tobacco industry in
25 this lawsuit is that the State should have

1 mitigated its damages by passing legislation to
2 limit the use of tobacco products or raising taxes
3 on tobacco products or limiting the use of tobacco
4 products by minors.

5 Isn't it a fact that on every single one of
6 those issues, the tobacco companies have always
7 opposed any law or regulation that would, in any
8 way, limit the use of their tobacco products?

9 MR. MURRAY: Objection to form.

10 Q (By Mr. Leedom) -- through '96?

11 MR. MURRAY: Same objection.

12 A I think on the issues that we've discussed, yes.
13 Again, that's the -- a real broad statement.

14 Q (By Mr. Leedom) Can you think of any instance
15 between 1989 and June of 1996, when you've been
16 involved with the tobacco industry, where the
17 industry has supported a piece of legislation or a
18 regulation whereby the tobacco products taxes are
19 reduced?

20 A I can't recall of anything.

21 Q Or whereby the enforcement measures against youth
22 access or penalties for providing tobacco products
23 to youth was, in fact, supported by the tobacco
24 companies?

25 A I can't recall of any -- any specifics on that,

1 but I -- I knew that during this whole process
2 when they were talking about the youth access bill
3 that you showed me, 2017 or 20 --

4 Q 2071?

5 A -- 71 or something like that, they had their
6 versions of the bill and that type of thing. So I
7 don't know if that -- you know, again, it could
8 have been laxer standards or whatever.

9 I knew that they -- I seem to recall that they
10 said that that they could support something. But
11 again, I don't have enough information to
12 elaborate on it.

13 Q Now, we talked about Mr. Fritz earlier. Let me
14 show you document 182, dated October 17, 1995.

15 Do you recognize that as Mr. Fritz's writing?

16 A Yeah. It's hard to read.

17 Q It's a letter to the president of the United
18 States by Mr. Fritz?

19 A Yes, that's what it appears to be.

20 Q It alleges he was a veteran, alleges he fought
21 against a totalitarian government. Do you see
22 that in there?

23 MR. MURRAY: Why don't you take
24 a minute to read it.

25 A Yeah, let me read it. He spelled totalitarian

1 wrong.

2 MR. MURRAY: Wait for the
3 question.

4 A Okay.

5 Q (By Mr. Leedom) Does it say that in there, that
6 he fought for his country and he fought against
7 totalitarian government?

8 A Yes.

9 Q Does it also indicate that he is offended by the
10 idea that tobacco products would be regulated by
11 the federal government?

12 A Yes.

13 Q And that has to do with the FDA regulation of --
14 proposed regulation of tobacco products?

15 MR. MURRAY: Objection to form.

16 A That's what it appears to be.

17 Q (By Mr. Leedom) Is there anywhere on there that
18 Mr. Fritz indicates that he is a paid lobbyist by
19 the tobacco industry?

20 A No.

21 Q Now, as a lobbyist, if you were to write a letter
22 to the president of the United States, would you
23 think it would be ethically required for you to
24 identify the fact that you are a lobbyist for the
25 tobacco industry?

1 MR. MURRAY: Objection to form.
2 A My personal opinion, I would do that. I don't
3 know if, you know -- Bill, I assume, is writing as
4 a private citizen that smokes. I don't know that
5 there is an obligation to disclose that.

6 Like I say, on a personal level, if I -- if I
7 wrote a similar letter, I would probably disclose
8 that I lobbied for the unions that represented the
9 workers in the tobacco industry.

10 Q (By Mr. Leedom) Why would you do that?

11 A Like I say, that's my personal --

12 Q But why is that your personal practice?

13 A Because I am involved with the issue and I think
14 the -- in this case, the president or whoever
15 reads the letter should know that.

16 Q Does this letter kind of sound like Mr. Fritz?

17 A Yeah.

18 MR. MURRAY: Objection to form.

19 THE WITNESS: Oh, excuse me.

20 MR. MURRAY: Go ahead.

21 A Yeah, that sounds like Bill.

22 Q (By Mr. Leedom) He's been a long-time smoker?

23 A Yes.

24 Q Is he on oxygen?

25 A No.

1 Q Was he at one point in time?

2 A Not that I can recall.

3 Q There is a letter, document 183, which is a draft
4 letter to the FDA opposing FDA regulation of
5 tobacco.

6 Is this a letter that you drafted?

7 A I can't remember if I -- wait a minute. Let me
8 read it first.

9 I do believe I drafted this letter.

10 Q Now, who -- who told you to draft that letter?

11 A This was in conjunction with a letter I received,
12 and I reference here in the document from Frank
13 Hurt, and it was -- my recollection is that the
14 letter from Frank Hurt was the basis -- you know,
15 kind of a draft that I used to draft this and then
16 made it specifically applicable to UFCW.

17 Q And again, for the record, Frank Hurt was your
18 boss or supervisor at LMC?

19 A Frank Hurt is president -- international president
20 of the BC&T, Baker, Confectionery and Tobacco
21 Workers.

22 Q Which is the largest union in the country, in
23 terms of tobacco workers?

24 A Correct.

25 Q And so he urged you to prepare a letter to send to

1 the FDA?

2 A Correct.

3 Q And again, the position of the tobacco industry
4 that you were advocating on behalf of the LMC was
5 to oppose FDA regulation of tobacco products?

6 MR. MURRAY: Objection to form.

7 Q (By Mr. Leedom) Correct?

8 A Correct.

9 Q Now, personally, did you have any personal belief
10 concerning whether or not the FDA should regulate
11 tobacco products as a drug?

12 A At the time -- and again, I did not -- I think I
13 turned over the FDA file, 380-some-odd pages. I
14 obviously didn't go through every detail of that.
15 I personally thought at the time that the action
16 was a little heavy-handed.

17 Q Why do you think that?

18 A Because, again, I think everybody recognized, or
19 at least I think from a common sense perspective,
20 that cigarettes -- or nicotine, whatever you want
21 to call it, is addictive, and that -- but it is a
22 legal product. And I personally believe that
23 you -- the state has an obligation to pass laws to
24 restrict certain usage and that type of thing, but
25 to regulate it in the same manner as you do, you

1 know, other prescription drugs and that type of
2 thing.

3 At that time, I didn't think that -- I thought
4 they went too far. That's my personal belief.

5 Q Well, do you think that tobacco is a legal product
6 if, in fact, it is a drug but not regulated as
7 such?

8 MR. MURRAY: Objection to form.

9 A Say that again.

10 Q (By Mr. Leedom) Well, you mentioned the term
11 "legal product," which is one of the little terms
12 the tobacco industry likes to utilize. But in
13 fact, if tobacco is a drug and is not being
14 regulated by the FDA, then it wouldn't be a legal
15 product at all, would it?

16 MR. MURRAY: Objection to form,
17 move to strike the preface.

18 Go ahead.

19 A The bottom line, I don't think I need to get a
20 prescription to go down and get pipe tobacco. I
21 mean, that's my -- you asked me personally how I
22 feel, and that's how I feel about it.

23 I think it's a choice I make. I understand
24 the risk involved and I make that conscious
25 decision as an adult to do it.

1 Q (By Mr. Leedom) How do you know you understand
2 the risk involved?

3 A Well, I've read, like I -- like I said, you know,
4 I've seen reports, and you've got some of them
5 there that tells me that tobacco use is bad for
6 you.

7 I question whether or not -- I mean, because
8 I've seen conflicting stuff over the years. You
9 know, I had a next-door neighbor that was a doctor
10 when I lived in Normandy Park, and he told me that
11 pipe tobacco and smoking a pipe is not nearly as
12 much of a problem as cigarettes. So I don't --
13 again, it's just a personal decision of my own
14 that I exercise.

15 Q Well, what if the manufacturer of pipe tobacco
16 knew that there was a risk of lip cancer or tongue
17 cancer that was ten times higher than was reported
18 in the medical literature? Would you want to know
19 that?

20 MR. MURRAY: Objection to form.

21 A Probably.

22 Q (By Mr. Leedom) And if you knew that, might you
23 act differently with respect to the pipe tobacco?

24 A Hypothetical question, I don't know.

25 Q Okay. There are several letters regarding this

1 FDA regulation issue. Did you write letters to a
2 number of federal agencies and other individuals
3 on that subject?

4 A My recollection -- and let me look at the
5 documents, because I think I wrote one myself and
6 then I did supply draft copies to other unions as
7 a format for them to write letters.

8 Q Here's Exhibit 186 (sic).

9 A Yeah, this is the one that you showed me just a
10 few minutes ago.

11 Q I think it's a duplicate of the earlier one.

12 A Oh, okay. Yeah, it's the same thing.

13 This is -- this is one that I prepared for
14 UFCW.

15 Q Now, here on this letter, which I think is a
16 little bit different than the earlier one, with
17 you again, Page 186, it says, "The issue of teen
18 smoking and restricting access to minors is
19 currently being addressed at the state level," end
20 quote.

21 I thought you told me that you were not
22 involved with that particular issue prior to the
23 more recent sessions.

24 A I wasn't involved actively lobbying. I just made
25 a statement there that you did have that -- was

1 it? 2071, there was a bill -- a law in effect in
2 Washington state, so I'm citing that in the
3 letter.

4 Q I see. And did you know at that time, when you
5 drafted the letter, that the tobacco industry in
6 fact opposed the restrictions on access to minors?

7 A Again, I -- not being involved in an issue, I
8 assume they did, but basically I'm just citing the
9 fact that there is a law in Washington state in
10 that letter.

11 Q Did you think that the tobacco industry's
12 opposition to a bill which would restrict access
13 to minors was inconsistent with this position that
14 we saw earlier, whereby they claim that they don't
15 want minors to utilize their products?

16 A Personally?

17 Q Yeah.

18 A I think it would depend on -- you know, again,
19 there is a solution that was -- say 2071, if they
20 had another way of doing it -- I mean, it's like
21 almost any other issue down there; they might have
22 a different approach to it.

23 And again, not being that much involved with
24 the youth access, it's hard for me to make the,
25 you know, judgment on that.

1 Q Here's another one, Exhibit 187 (sic), your
2 letterhead dated October 24, 1995. It's a letter
3 to you, again, regarding -- from you, again,
4 regarding the FDA.

5 A Oh.

6 Q And it says, "This effort is being pushed by
7 BC&T," which is that union you told me about.

8 A Right.

9 Q "They represent thousands of workers in the
10 tobacco industry and are fearful that the new rule
11 will effectively eliminate the domestic industry.
12 The companies would move operations overseas to
13 Turkey, India," et cetera.

14 What's the basis for your concern that jobs
15 would be eliminated and that companies would
16 manufacture outside the United States if FDA
17 regulation came into play?

18 A Well, that was a major -- in fact, probably the --
19 the concern of the BC&T at the time. They felt if
20 the FDA rules went into effect as drafted, that
21 the companies would opt to go overseas rather than
22 continue domestic production and, thus, jobs would
23 be lost.

24 I think it's probably the central theme
25 that -- probably the reason why the LMC was

1 created in the first place.

2 Q Do you think that's a scare tactic?

3 MR. MURRAY: Objection to form.

4 A I think it's a forcible statement, but I think
5 there is some validity to it, and I personally
6 believe that myself.

7 Q (By Mr. Leedom) There wouldn't be any jobs lost
8 in the state of Washington, would there be?

9 A No -- well, conceivably, if you -- if you go
10 through the -- what I consider the domino effect,
11 if you didn't lose a domestic industry, of course
12 there would be jobs lost in the retail industry;
13 probably in the ports, you know, in shipping and
14 export-related jobs that would be affected by it.

15 Q Here's another memo by you, dated January 24,
16 1992, to members of the House Commerce and Labor
17 Committee regarding House Bill 2274; again, which
18 relates to discrimination by an employer against
19 smokers.

20 Do you see that?

21 A Yeah.

22 Q Do you remember that particular memo?

23 A Yeah, this is -- this was a handout that I gave
24 every member of the committee and then did a
25 brief -- if I recall, a brief oral testimony,

1 answered questions on it.

2 Q Now, is that a document that you prepared

3 personally, or was there a document prepared for

4 you that you then put your name on and sent it

5 out?

6 A No, this is me.

7 Q Did you read 1984?

8 A Yes.

9 Q When did you read it?

10 A Oh, God. '60s sometime.

11 Q Did you go back and look at it again to see what

12 the point was that was being made?

13 A No.

14 Q But you used that as a basis for your argument

15 that Big Brother was -- was acting within the

16 employment area?

17 A Yes.

18 Q And who did you send that out to?

19 A It went as it says here, all the members of the

20 House Labor and Commerce Committee. I conceivably

21 might have given it to other legislators, too.

22 Q And as you said, I believe earlier, the end result

23 was that this was defeated?

24 A No, the bill -- it was vetoed.

25 Q Vetoed, rather?

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23 was that this was defeated?

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25 Q Vetoed, rather?

1 A The bill did pass the house and the senate.
2 Q And Governor Gardner vetoed it?
3 A Governor Gardner vetoed it.
4 Q Well, here's a letter, No. 209, where you're
5 writing to the Honorable Bill Clinton, president
6 of the United States. I'm going to show you this
7 letter.
8 A Uh-huh. (Witness answers positively.)
9 Q And, again, you're writing on behalf of the
10 tobacco workers, urging against federal regulation
11 of tobacco products by the FDA.
12 A No. In this case, I was writing on behalf of the
13 International Federation of Professional and
14 Technical Engineers.
15 Q And I'm sorry.
16 A And this was a letter that I spoke to the business
17 manager, discussed the issue with him, and got his
18 approval to write the letter on behalf of IFBTE.
19 He would have signed it, but he was out of town.
20 Q You say here that, "Washington state is hardly a
21 tobacco-friendly state. We have the highest state
22 taxes on tobacco and one of the most restrictive
23 workplace smoking policies in the nation."
24 A I think in 1995, that was accurate.
25 Q Was that true throughout the time that you worked

1 for the tobacco industry, the 1990 and 1996 time
2 frame?

3 A I -- I can't remember. The tax hike in 1993, I
4 think, put Washington at the top, and before that,
5 I don't know where it ranked.

6 As far as workplace smoking policies, prior to
7 the L&I rule -- there could have been other
8 states, maybe, but certainly with the L&I rule,
9 from what I was told, it was the most restrictive.

10 Q Document 210, is this your contract with the
11 Tobacco Industry Labor Management Committee?

12 A Yes, this was a 1996 contract. I couldn't find my
13 new one, but this is -- these contracts, if I
14 recall, are almost duplicative. They don't
15 change.

16 Q Now, when you're addressing a legislator, do you
17 identify yourself as being with the Labor
18 Management Committee?

19 A If the issue is pertaining to the Labor Management
20 Committee, yes.

21 Q Or do you say you're with the Tobacco Industry
22 Labor Management Committee?

23 A I -- for the first time, you know, if I'm meeting
24 with a legislator for the first time, I explain
25 exactly who the TILMC is. After that, it's just

1 this is an issue that the LMC is working on.

2 Q Right. But in fact, the real name of the company
3 that employs you is the Tobacco Industry Labor
4 Management Committee, the TILMC, isn't it?

5 A Right.

6 Q But when you, in fact, address people and make
7 presentations, you call it the LMC, don't you?

8 A Occasionally I call it the LMC, after I've
9 explained to them what the Tobacco Industry Labor
10 Management Committee is. I've done that in a
11 couple of hearings.

12 MR. MURRAY: Can I see the
13 last -- I'm sorry, one more. Thanks.

14 Q (By Mr. Leedom) The document No. 279, by the
15 Tobacco Institute, is a document concerning
16 environmental tobacco smoke regulation. And it
17 is a rather lengthy document by which, again,
18 the tobacco industry opposes a regulation of
19 environmental smoke in the workplace, right?

20 A Right. I don't think I read this.

21 Q Okay. Do you have any idea of the budget of the
22 Tobacco Institute?

23 A No.

24 Q All right. Exhibit 398 (sic), dated February 7,
25 1996, from Sharon McCann of the United Food and

1 Commercial Workers Union, can you tell me how that
2 document got into your files?

3 A Can I read it?

4 Q Sure.

5 A This is a letter that I did not write, but I'm
6 pretty sure that it was forwarded to me by the
7 district counsel.

8 1105 is one of the larger UFCW locals in
9 Washington state. They represent a lot of grocery
10 employees, and it really goes to the point of a
11 major issue that they've had with compliance
12 checks and penalties on clerks.

13 And I think what she's saying here is that
14 those bills, 6114, 6457, which I think -- well, it
15 says '96, so it must have been '96 session, but I
16 think we were in '97. There were certain parts of
17 that bill where they increased the penalties to
18 clerks, that they didn't feel was fair. And they
19 also cited the fact that in some cases, compliance
20 checks or sting operations, whatever you want to
21 call them, there seemed to be an overzealousness
22 on the part of the people trying to entrap people,
23 and they would like to see some standardized
24 guidelines on how you conduct these operations.

25 And that's been a -- again, that was a point

1 about youth access that I've been working on. It
2 also is probably reflective of most of the other
3 locals in the UFCW.

4 Q So what was the position of the tobacco industry
5 with respect to these sting operations or
6 compliance checks and penalties on grocery stores
7 in the '90 to '96 time frame?

8 A There was actually probably a division.

9 The one proposal that UFCW had in meetings
10 with the liquor board, we wanted to have these
11 compliance check standards codified in WAC. And
12 my recollection is the tobacco industry was
13 opposed to having them codified in WAC. Whether
14 or not they opposed them in statute, I don't know,
15 but...(Pause.)

16 Q Well, can you tell me of any knowledge you have
17 that the tobacco companies ever supported
18 compliance checks, sting operations, or penalties
19 imposed against those who sold tobacco products to
20 underage persons?

21 A My recollection, you know -- and there was a
22 meeting with just about everybody that was
23 involved in the issue by the liquor board. Mary
24 McKnew called it --

25 THE REPORTER: I'm sorry?

1 A McKnew, M-C-K-N-E-W, she was on the liquor board
2 at the time. My recollection is that they've said
3 they would support some kind of proposal, but they
4 did not want the standards put in WAC. I think
5 they preferred it to be advisory or put in
6 statute.

7 Q (By Mr. Leedom) Isn't that a --

8 A But that's my recollection, and I could be in
9 error.

10 Q Isn't that, again, another example of a tactic to
11 say you support a concept but you don't support it
12 the way it is right now so you just let it die on
13 the vine?

14 MR. MURRAY: Objection to form.

15 A Yeah, I think you ought to ask them that question.

16 Q (By Mr. Leedom) You're a lobbyist, you've been
17 around doing that. Isn't that a tactic that's
18 used by -- and it's not limited to the tobacco
19 companies --

20 A Sure.

21 Q -- but used by opponents to particular pieces of
22 legislation, by saying that they support the
23 concept but not what the legislation says and,
24 therefore, defeat the legislation and, in the end,
25 get their goal, which is to not have the

1 legislation at all?

2 A You're correct, that's a common practice.

3 MR. LEEDOM: All right. I
4 think that's all the questions I have today for
5 Mr. Daniels. And I know you've identified a
6 couple of documents as privileged, which, of
7 course, I didn't ask him about. And as --

8 MR. MURRAY: Just -- I think
9 we're down to one, I think.

10 MR. LEEDOM: Yeah, one.

11 As you know, we have other depositions to take
12 yet of other lobbyists and there may be the need
13 for us to request additional questions of
14 Mr. Daniels if he, in fact, has information that
15 contradicts what's said.

16 Also, we are constantly getting more documents
17 from various sources, and it may be that there
18 will be a document that you authored that we'll
19 receive from somebody else that we didn't have in
20 your set that we may have to ask you questions
21 about. So I don't have any desire to ask the same
22 questions over again, but I may request additional
23 time with you for your deposition.

24 So I'm going to end today and leave an open
25 position with respect to future questioning.

1 MR. MURRAY: Anybody else have
2 any questions?

3 THE VIDEOGRAPHER: This
4 concludes the deposition for today. We are going
5 off the record at 2:01.

6 (Signature reserved.)

7 (Deposition concluded at
8 2:01 p.m.)
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1 STATE OF WASHINGTON) I, KARMEN M. KNUDSON,
2 County of Pierce) ss CCR #KN-UD-SK-M310KT a
3 duly authorized Notary
4 Public in and for the
5 State of Washington
6 residing at Tacoma,
7 do hereby certify:

8 That the foregoing deposition of JOE C.
9 DANIELS was taken before me and completed on June
10 4, 1998, and thereafter was transcribed under my
11 direction; that the deposition is a full, true and
12 complete transcript of the testimony of said
13 witness, including all questions, answers,
14 objections, motions and exceptions;

15 That the witness, before examination, was
16 by me duly sworn to testify the truth, the whole
17 truth, and nothing but the truth, and that the
18 witness reserved the right of signature;

19 That I am not a relative, employee,
20 attorney or counsel of any party to this action or
21 relative or employee of any such attorney or
22 counsel and that I am not financially interested
23 in the said action or the outcome thereof;

24 That I am herewith securely sealing the
25 said deposition and promptly delivering the same
to Attorney WILLIAM J. LEEDOM.

IN WITNESS WHEREOF, I have hereunto set
my hand and affixed my official seal this day
of , 1998.

Karmen M. Knudson, CCR, RPR
Notary Public in and for the State
of Washington, residing at Tacoma.